

1 **SECTION 124.** 938.067 (6) (title), (6g) (title) and (6m) (title) of the statutes are created
2 to read:

3 938.067 (6) (title) REQUEST FOR PETITION; DEFERRED PROSECUTION.

4 (6g) (title) VICTIMS' RIGHTS.

5 (6m) (title) MULTIDISCIPLINARY SCREEN.

6 **SECTION 125.** 938.067 (7) of the statutes is amended to read:

7 938.067 (7) REFERRALS. Make referrals of cases to other agencies if their assistance
8 ~~appears to be~~ is needed or desirable.

9 **SECTION 126.** 938.067 (8) (title) and (8m) (title) of the statutes are created to read:

10 938.067 (8) (title) INTERIM RECOMMENDATIONS.

11 (8m) (title) TAKING JUVENILES INTO CUSTODY.

12 **SECTION 127.** 938.067 (9) of the statutes is amended to read:

13 938.067 (9) OTHER FUNCTIONS. Perform any other functions ordered by the court, and,
14 when the court or chief judge requests, assist the court or chief judge of the judicial
15 administrative district in developing written policies or carrying out its other duties ~~when the~~
16 ~~court or chief judge so requests.~~

17 **SECTION 128.** 938.069 (1) (intro.), (c), (dj) and (e) of the statutes are amended to read:

18 938.069 (1) DUTIES. (intro.) The Subject to sub. (2), the staff of the department, the
19 court, a county department, or a licensed child welfare agency designated by the court to carry
20 out the objectives and provisions of this chapter shall:

21 (c) Make an affirmative effort, and investigate and develop resources, to obtain
22 necessary or desired services for the juvenile and the juvenile's family ~~and investigate and~~
23 ~~develop resources toward that end.~~

(dj) Provide aftercare services for a juvenile ~~who has been~~ released from a secured juvenile correctional facility, ~~or a secured child caring institution or a secured group home residential care center for children and youth.~~

(e) Perform any other court-ordered functions consistent with this chapter which are ordered by the court.

SECTION 129. 938.069 (2) (title), (3) (title) and (4) (title) of the statutes are created to read:

938.069 (2) (title) AGENCY APPROVAL NEEDED.

(3) (title) INTAKE SERVICES.

(4) (title) QUALIFICATIONS OF DISPOSITION STAFF.

SECTION 130. 938.07 (2) and (3) of the statutes are amended to read:

938.07 (2) LICENSED CHILD WELFARE AGENCY. The court may request the services of a child welfare agency licensed under s. 48.60 in accordance with procedures established by that agency. The ~~child welfare~~ agency shall receive no compensation for these services but may be reimbursed out of funds made available to the court for the actual and necessary expenses incurred in the performance of duties for the court.

(3) COUNTY DEPARTMENT IN POPULOUS COUNTIES. In counties having a population of 500,000 or more, the court may order the director of the county department ~~may be ordered by the court~~ to provide services for ~~furnishing~~ emergency shelter care services to any juvenile whose need ~~therefor~~ for the services, either by reason of need of protection and services or delinquency, is determined by the intake worker under s. 938.205. The court may authorize the director to appoint members of the county department to furnish emergency shelter care services for the juvenile. The emergency shelter care may be provided ~~as specified in~~ under s. 938.207.

1 **SECTION 131.** 938.08 (1) and (2) of the statutes are amended to read:

2 938.08 (1) INVESTIGATIONS; REPORTS. ~~It is the duty of each~~ A person appointed to furnish
3 services to the court ~~as provided in~~ under ss. 938.06 and 938.07 ~~to~~ shall make such any
4 investigations and exercise such any discretionary powers as the judge court may direct, to
5 keep a written record of such the investigations, and to submit a report to the judge court. The
6 person shall keep informed concerning the conduct and condition of the juvenile under the
7 person's supervision and shall report ~~thereon~~ on the conduct and condition as the judge court
8 directs.

9 (2) POWER TO TAKE JUVENILE INTO CUSTODY; LIMITS. Except as provided in sub. (3) and
10 ss. 938.355 (6d) and 938.534 (1), ~~any~~ a person authorized to provide or providing intake or
11 dispositional services for the court under s. 938.067 or 938.069 has the power of police officers
12 and deputy sheriffs only for the purpose of taking a juvenile into physical custody when the
13 juvenile comes voluntarily ~~or~~, is suffering from illness or injury, or is in immediate danger
14 from his or her surroundings and removal from the surroundings is necessary.

15 **SECTION 132.** 938.08 (3) of the statutes is amended to read:

16 938.08 (3) CONDITIONS FOR CERTAIN OTHER PERSONS TO TAKE JUVENILE INTO CUSTODY.
17 (intro.) In addition to the law enforcement authority ~~specified in~~ under sub. (2), department
18 personnel designated by the department, personnel of an agency contracted with under s.
19 301.08 (1) (b) 3. and designated by agreement between the agency and the department, and
20 personnel of a county contracted with under s. 301.08 (1) (b) 4. and designated by agreement
21 between the county and the department have the power of law enforcement authorities to take
22 a juvenile into physical custody under the following conditions:

1 1. If they are in prompt pursuit of a juvenile who has run away from a secured juvenile
2 correctional facility; or a residential care center for children and youth; ~~or a secured group~~
3 home.

4 2. If the juvenile has failed to return to a secured juvenile correctional facility; or a
5 residential care center for children and youth; ~~or a secured group home~~ after any authorized
6 absence.

7 (b) A juvenile who is taken into custody under par. (a) may be returned directly to the
8 secured juvenile correctional facility; or residential care center for children and youth; ~~or~~
9 ~~secured group home~~ and shall have a hearing regarding placement ~~in a disciplinary cottage~~
10 ~~or~~ in disciplinary status in accordance with ch. 227.

NOTE: Deletes the reference to "disciplinary cottage" in s. 938.08 (3) (b)
because it is an outdated concept.

11 **SECTION 133.** 938.09 (1) to (6) of the statutes are amended to read:

12 938.09 (1) DELINQUENCY. By the district attorney, in any matter arising under s. 938.12.

13 (2) CIVIL LAW VIOLATION. By the district attorney or, if designated by the county board
14 of supervisors, by the corporation counsel, in any matter concerning a civil law violation
15 arising under s. 938.125. If the county board transfers this authority to or from the district
16 attorney on or after May 11, 1990, the board may do so only if the action is effective on
17 September 1 of an odd-numbered year and the board notifies the department of administration
18 of that change by January 1 of that ~~odd-numbered~~ year.

19 (3) MUNICIPAL ORDINANCE VIOLATION. By the city, village, or town attorney, in any
20 matter concerning a city, village, or town ordinance violation, respectively, arising under s.
21 938.125.

1 (4) COUNTY ORDINANCE VIOLATION. By ~~any~~ an appropriate person designated by the
2 county board of supervisors in any matter concerning a ~~noneity~~ county ordinance violation
3 ~~arising~~ under s. 938.125.

4 (5) JUVENILE IN NEED OF PROTECTION OR SERVICES. By the district attorney or, if
5 designated by the county board of supervisors, by the corporation counsel, in any matter
6 ~~arising~~ under s. 938.13. If the county board transfers this authority to or from the district
7 attorney on or after May 11, 1990, the board may do so only if the action is effective on
8 September 1 of an odd-numbered year and the board notifies the department of administration
9 of that change by January 1 of that ~~odd-numbered~~ year.

10 (6) INTERSTATE COMPACT. By ~~any~~ an appropriate person designated by the county board
11 of supervisors in any matter arising under s. 938.14.

12 **SECTION 134.** 938.10 of the statutes is amended to read:

13 **938.10 Power of the judge to act as intake worker.** The duties of the intake worker
14 may be carried out ~~from time to time~~ by the judge at his or her discretion, but except that if
15 a request to file a petition is made, a citation is issued, or a deferred prosecution agreement
16 is entered into, the judge ~~shall be~~ is disqualified from participating further in the proceedings.

17 **SECTION 135.** 938.12 of the statutes is amended to read:

18 **938.12 Jurisdiction over juveniles alleged to be delinquent.** (1) IN GENERAL. The
19 court has exclusive jurisdiction, except as provided in ss. 938.17, 938.18, and 938.183, over
20 any juvenile 10 years of age or ~~over~~ older who is alleged to be delinquent.

21 (2) SEVENTEEN-YEAR OLDS. If a court proceeding ~~has been commenced under this~~
22 ~~section before a petition alleging that a juvenile is delinquent is filed before the~~ juvenile is 17
23 years of age, but the juvenile becomes 17 years of age before admitting the facts of the petition

1 at the plea hearing or if the juvenile denies the facts, before an adjudication, the court retains
2 jurisdiction over the case.

NOTE: Clarifies, in s. 938.12 (2), that a delinquency proceeding is commenced when a delinquency petition is filed. [*D.W.B. v. State*, 158 Wis. 2d 398, 462 N.W.2d 520, 521 (1990).]

3 **SECTION 136.** 938.125 (intro.) and (2) of the statutes are amended to read:

4 **938.125 Jurisdiction over juveniles alleged to have violated civil laws or**
5 **ordinances.** (intro.) The court has exclusive jurisdiction over any a juvenile alleged to have
6 violated a law punishable by forfeiture or a county, town, or other municipal ordinance, except
7 as follows:

8 (2) ~~That the~~ The court has exclusive jurisdiction over any a juvenile alleged to have
9 violated an ordinance enacted under s. 118.163 (2) only if evidence is provided by the school
10 attendance officer that the activities under s. 118.16 (5) have been completed or were not
11 required to be completed as provided in s. 118.16 (5m).

12 **SECTION 137.** 938.13 of the statutes is amended to read:

13 **938.13 Jurisdiction over juveniles alleged to be in need of protection or services.**
14 (intro.) The court has exclusive original jurisdiction over a juvenile alleged to be in need of
15 protection or services which can be ordered by the court, ~~and if any one or more of the~~
16 following conditions:

17 (4) UNCONTROLLABLE. ~~Whose~~ The juvenile's parent or guardian signs the petition
18 requesting jurisdiction under this subsection and is unable or needs assistance to control the
19 juvenile.

20 (6) HABITUALLY TRUANT FROM SCHOOL. ~~Who~~ Except as provided under s. 938.17 (2),
21 the juvenile is habitually truant from school, ~~if and~~ evidence is provided by the school
22 attendance officer that the activities under s. 118.16 (5) have been completed or were not

1 required to be completed as provided in s. 118.16 (5m), ~~except as provided under s. 938.17~~
2 (2).

3 (6m) SCHOOL DROPOUT. ~~Who~~ The juvenile is a school dropout, as defined in s. 118.153
4 (1) (b).

5 (7) HABITUALLY TRUANT FROM HOME. ~~Who~~ The juvenile is habitually truant from home
6 and either the juvenile ~~or~~, a parent, or guardian, or a relative in whose home the juvenile resides
7 signs the petition requesting jurisdiction and attests in court that reconciliation efforts have
8 been attempted and have failed.

9 (12) DELINQUENT ACT BEFORE AGE 10. ~~Who, being~~ The juvenile is under 10 years of age,
10 and has committed a delinquent act as defined in s. 938.12.

11 (14) NOT RESPONSIBLE OR NOT COMPETENT. ~~Who~~ The juvenile has been determined,
12 under s. 938.30 (5) (c), to be not responsible for a delinquent act by reason of mental disease
13 or defect or who has been determined, under s. 938.30 (5) (d), to be not competent to proceed.

14 **SECTION 138.** 938.135 of the statutes is amended to read:

15 **938.135 Referral of juveniles to proceedings under ch. 51 or 55. (1) JUVENILE WITH**
16 **DEVELOPMENTAL DISABILITY OR MENTAL ILLNESS, OR ALCOHOL OR DRUG DEPENDENCY.** If a
17 juvenile alleged to be delinquent or in need of protection or services is before the court and
18 it appears that ~~the juvenile is developmentally disabled, mentally ill or to have a~~
19 developmental disability or mental illness or to be drug dependent or suffers suffering from
20 alcoholism, the court may proceed under ch. 51 or 55.

21 (2) ADMISSIONS, PLACEMENTS, AND COMMITMENTS TO INPATIENT FACILITIES. Any voluntary
22 or involuntary admissions, placements, or commitments of a juvenile made in or to an
23 inpatient facility, as defined in s. 51.01 (10), other than a commitment under s. 938.34 (6) (am)
24 ~~shall be,~~ are governed by ch. 51 or 55.

1 **SECTION 139.** 938.15 of the statutes is amended to read:

2 **938.15 Jurisdiction of other courts to determine legal custody.** Nothing contained
3 in s. 938.12, ~~938.13 or 938.14~~ this chapter deprives ~~other courts~~ another court of the right to
4 determine the legal custody of juveniles a juvenile by habeas corpus or to determine the legal
5 custody or guardianship of juveniles a juvenile if the legal custody or guardianship is
6 incidental to the determination of ~~causes~~ an action pending in ~~the other courts~~ that court. But
7 the jurisdiction of the court assigned to exercise jurisdiction under this chapter and ch. 48 is
8 paramount in all cases involving juveniles alleged to come within the provisions of ss. 938.12
9 to 938.14.

10 **SECTION 140.** 938.17 (1) (title), (intro.) and (c) of the statutes are amended to read:

11 **938.17 (title) Jurisdiction over traffic, boating, snowmobile, and all-terrain vehicle**
12 **violations and over civil law and ordinance violations.** (1) (intro.) TRAFFIC, BOATING,
13 SNOWMOBILE AND ALL-TERRAIN VEHICLE VIOLATIONS. Except for violations of ss. 342.06 (2) and
14 344.48 (1), and violations of ss. 30.67 (1) and 346.67 (1) when death or injury occurs, courts
15 of criminal and civil jurisdiction ~~shall~~ have exclusive jurisdiction in proceedings against
16 juveniles 16 years of age or older for violations of s. 23.33, of ss. 30.50 to 30.80, of chs. 341
17 to 351, and of traffic regulations, as defined in s. 345.20, and nonmoving traffic violations,
18 as defined in s. 345.28 (1). A juvenile charged with a traffic, boating, snowmobile, or
19 all-terrain vehicle offense in a court of criminal or civil jurisdiction shall be treated as an adult
20 before the trial of the proceeding except that the juvenile may be held in secure custody only
21 in a secure detention facility. A juvenile convicted of a traffic, boating, snowmobile, or
22 all-terrain vehicle offense in a court of criminal or civil jurisdiction shall be treated as an adult
23 for sentencing purposes except as follows:

(c) If the court of civil or criminal jurisdiction orders the juvenile to serve a period of incarceration of 6 months or more, that court shall petition the court assigned to exercise jurisdiction under this chapter and ch. 48 to order one or more of the dispositions ~~provided in~~ under s. 938.34, including placement of the juvenile in a ~~secured juvenile~~ secured juvenile correctional facility, ~~a secured child-caring institution or a secured group home under s. 938.34 (4m)~~ residential care center for children and youth, if appropriate.

SECTION 141. 938.17 (2) (a) (title) of the statutes is created to read:

938.17 (2) (a) (title) *Concurrent municipal and juvenile court jurisdiction; ordinance violations.*

SECTION 142. 938.17 (2) (a) 2. d. and 3. of the statutes are amended to read:

938.17 (2) (a) 2. d. If the municipality specified under subd. 2. b. or c. has not adopted an ordinance under s. 118.163, the municipal court that may exercise jurisdiction under subd. 1. is the municipal court that is located in the municipality where the juvenile resides, if that municipality has adopted an ordinance under s. 118.163.

3. When a juvenile is alleged to have violated a municipal ordinance, ~~the juvenile one~~ of the following may be occur:

a. ~~Issued~~ The juvenile may be issued a citation directing the juvenile to appear in municipal court or make a deposit or stipulation and deposit in lieu of appearance;

b. ~~Issued~~ The juvenile may be issued a citation directing the juvenile to appear in the court assigned to exercise jurisdiction under this chapter and ch. 48 or make a deposit or stipulation and deposit in lieu of appearance as provided in s. 938.237; ~~or~~

c. ~~Referred~~ The juvenile may be referred to intake for a determination whether a petition should be filed in the court assigned to exercise jurisdiction under this chapter and ch. 48 pursuant to under s. 938.125.

1 **SECTION 143.** 938.17 (2) (b) to (cm) of the statutes are amended to read:

2 938.17 (2) (b) Juvenile court jurisdiction; civil law and ordinance violations. When
3 a juvenile 12 years of age or older is alleged to have violated a civil law punishable by a
4 forfeiture or ~~where a juvenile is alleged to have violated a municipal ordinance but there is no~~
5 municipal court in the municipality, ~~the juvenile~~ one of the following may ~~be occur~~:

6 1. ~~Issued~~ The juvenile may be issued a citation directing the juvenile to appear in the
7 court assigned to exercise jurisdiction under this chapter and ch. 48 or make a deposit or
8 stipulation and deposit in lieu of appearance as provided in s. 938.237; ~~or.~~

9 2. ~~Referred~~ The juvenile may be referred to intake for a determination whether a petition
10 under s. 938.125 should be filed in the court assigned to exercise jurisdiction under this chapter
11 and ch. 48 ~~pursuant to s. 938.125.~~

12 (c) Citation procedures. The citation procedures described in ch. 800 ~~shall~~ govern
13 proceedings involving juveniles in municipal court, except that this chapter ~~shall govern~~
14 governs the taking and holding of a juvenile in custody and par. (cg) ~~shall govern~~ governs the
15 issuing of a summons to the juvenile's parent, guardian, or legal custodian. When a juvenile
16 is before the court assigned to exercise jurisdiction under this chapter and ch. 48 upon a citation
17 alleging that the juvenile ~~to have~~ violated a civil law or municipal ordinance, the procedures
18 specified in s. 938.237 ~~shall~~ apply. If a citation is issued to a juvenile, the issuing agency shall
19 notify the juvenile's parent, guardian, and legal custodian within 7 days. The agency issuing
20 a citation to a juvenile who is 12 to 15 years of age for a violation of s. 125.07 (4) (a) or (b),
21 125.085 (3) (b), 125.09 (2), 961.573 (2), 961.574 (2), or 961.575 (2) or an ordinance
22 conforming to one of those statutes shall send a copy to an intake worker under s. 938.24 for
23 informational purposes only.

1 (cg) Summons procedures. After a citation is issued, unless the juvenile and his or her
2 parent, guardian, and legal custodian voluntarily appear, the municipal court may issue a
3 summons requiring the parent, guardian ~~and~~ or legal custodian of the juvenile to appear
4 personally at any hearing involving the juvenile and, if the court so orders, to bring the juvenile
5 before the court at a time and place stated. Section 938.273 ~~shall govern~~ governs the service
6 of a summons under this paragraph, except that the expense of service or publication of a
7 summons and of the travelling expenses and fees ~~as allowed in ch. 885~~ of a person summoned
8 allowed in ch. 885 shall be a charge on the municipality of the court issuing the summons when
9 approved by the court. If any person summoned under this paragraph fails without reasonable
10 cause to appear, he or she may be proceeded against for contempt of court under s. 785.06.
11 If a summons cannot be served or if the person served fails to obey the summons or if it appears
12 to the court that the service will be ineffectual, a *capias* may be issued for the juvenile and for
13 the parent, guardian ~~and~~ or legal custodian.

14 (cm) Authorization for dispositions and sanctions. A city, village, or town may adopt
15 an ordinance or bylaw specifying which of the dispositions under ss. 938.343 and 938.344 and
16 sanctions under s. 938.355 (6) (d) and (6m) the municipal court of that city, village, or town
17 is authorized to impose or to petition the court assigned to exercise jurisdiction under this
18 chapter and ch. 48 to impose. The use by the court of those dispositions and sanctions is
19 subject to any ordinance or bylaw adopted under this paragraph.

20 **SECTION 144.** 938.17 (2) (d) of the statutes is renumbered 938.17 (2) (d) 1. and amended
21 to read:

22 938.17 (2) (d) Disposition; ordinance violations generally. 1. If a municipal court finds
23 that the juvenile violated a municipal ordinance other than an ordinance enacted under s.
24 118.163 or an ordinance that conforms to s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2),

1 961.573 (2), 961.574 (2), or 961.575 (2), the court shall enter any of the dispositional orders
2 permitted under s. 938.343 that are authorized under par. (cm). If a juvenile fails to pay the
3 forfeiture imposed by the municipal court, the court may not impose a jail sentence but may
4 suspend any license issued under ch. 29 for not less than 30 days nor more than 5 years, or
5 suspend the juvenile's operating privilege, as defined in s. 340.01 (40), for not more than 2
6 years.

7 2. If a court suspends a license or privilege under ~~this section~~ subd. 1., the court shall
8 immediately take possession of the applicable license and forward it to the department that
9 issued the license, together with the notice of suspension ~~clearly~~ stating that the suspension
10 is for failure to pay a forfeiture imposed by the court. If the forfeiture is paid during the period
11 of suspension, the court shall immediately notify the department, which shall ~~thereupon~~ then
12 return the license to the person.

13 **SECTION 145.** 938.17 (2) (e) (title), (f) (title) and (g) (title) of the statutes are created
14 to read:

15 938.17 (2) (e) (title) *Disposition; alcohol and drug ordinance violations.*

16 (f) (title) *Notice to victims.*

17 (g) (title) *Disposition; truancy or school dropout ordinance violations.*

18 **SECTION 146.** 938.17 (2) (h) (title) of the statutes is created to read:

19 938.17 (2) (h) *Sanctions; dispositional order violations generally.*

20 **SECTION 147.** 938.17 (2) (h) 1. and 2. of the statutes are amended to read:

21 938.17 (2) (h) 1. If a juvenile who has violated a municipal ordinance, other than an
22 ordinance enacted under s. 118.163 (1m) or (2), violates a condition of his or her dispositional
23 order, the municipal court may impose on the juvenile any of the sanctions specified in s.
24 938.355 (6) (d) 2. to 5. that are authorized under par. (cm) except for monitoring by an

1 electronic monitoring system ~~or~~. The municipal court may also petition the court assigned to
2 exercise jurisdiction under this chapter and ch. 48 to impose on the juvenile the sanction
3 specified in s. 938.355 (6) (d) 1. or home detention with monitoring by an electronic
4 monitoring system as specified in s. 938.355 (6) (d) 3., if authorized under par. (cm). A
5 sanction may be imposed under this subdivision only if at the time of judgment the court
6 explained the conditions to the juvenile and informed the juvenile of the possible sanctions
7 under s. 938.355 (6) (d) that are authorized under par. (cm) for a violation or if before the
8 violation the juvenile has acknowledged in writing that he or she has read, or has had read to
9 him or her, those conditions and possible sanctions and that he or she understands those
10 conditions and possible sanctions.

11 2. A motion requesting the municipal court to impose or petition for a sanction may be
12 brought by the person or agency primarily responsible for the provision of dispositional
13 services, the municipal attorney, or the court that entered the dispositional order. If the court
14 initiates the motion, that court is ~~disqualified from holding~~ may not hold a hearing on the
15 motion. Notice of the motion shall be given to the juvenile and the juvenile's parent, guardian,
16 or legal custodian.

17 **SECTION 148.** 938.17 (2) (i) (title) of the statutes is created to read:

18 938.17 (2) (i) *Sanctions; truancy or school dropout dispositional order violations.*

19 **SECTION 149.** 938.17 (2) (i) 1., 2m. and 3g. of the statutes are amended to read:

20 938.17 (2) (i) 1. If a juvenile who has violated a municipal ordinance enacted under s.
21 118.163 (1m) violates a condition of his or her dispositional order, the municipal court may
22 impose on the juvenile any of the sanctions specified in s. 938.355 (6m) (ag). A sanction may
23 be imposed under this subdivision only if at the time of judgment the court explained the
24 conditions to the juvenile and informed the juvenile of those possible sanctions or if before

1 the violation the juvenile has acknowledged in writing that he or she has read, or has had read
2 to him or her, those conditions and possible sanctions and that he or she understands those
3 conditions and possible sanctions.

4 2m. If a juvenile who has violated a municipal ordinance enacted under s. 118.163 (2)
5 violates a condition of his or her dispositional order, the municipal court may impose on the
6 juvenile any of the sanctions specified in s. 938.355 (6m) (a) that are authorized under par.
7 (cm) except for the sanction specified in s. 938.355 (6m) (a) 1g. ~~or~~ The municipal court may
8 also petition the court assigned to exercise jurisdiction under this chapter and ch. 48 to impose
9 on the juvenile the sanction specified in s. 938.355 (6m) (a) 1g., if authorized under par. (cm).
10 A sanction may be imposed under this subdivision only if at the time of judgment the court
11 explained the conditions to the juvenile and informed the juvenile of the possible sanctions
12 under s. 938.355 (6m) (a) that are authorized under par. (cm) for a violation or if before the
13 violation the juvenile has acknowledged in writing that he or she has read, or has had read to
14 him or her, those conditions and possible sanctions and that he or she understands those
15 conditions and possible sanctions.

16 3g. A motion requesting the municipal court to impose or petition for a sanction may
17 be brought by the person or agency primarily responsible for the provision of dispositional
18 services, the municipal attorney, or the court that entered the dispositional order. If the court
19 initiates the motion, that court ~~is disqualified from holding~~ may not hold a hearing on the
20 motion. Notice of the motion shall be given to the juvenile and the juvenile's parent, guardian,
21 or legal custodian.

22 **SECTION 150.** 938.18 (1) (a) (intro.) of the statutes is renumbered 938.18 (1) (intro.) and
23 amended to read:

1 938.18 (1) WAIVER OF JUVENILE COURT JURISDICTION; CONDITIONS FOR. (intro.) Subject
2 to s. 938.183, a juvenile or district attorney may apply to petition requesting the court to waive
3 its jurisdiction under this chapter ~~in~~ may be filed if the juvenile meets any of the following
4 ~~situations~~ conditions:

5 1. ~~If the (a) The~~ juvenile is alleged to have violated s. 940.03, 940.06, 940.225 (1) or
6 (2), 940.305, 940.31, 943.10 (2), 943.32 (2), or 961.41 (1) on or after the juvenile's 14th
7 birthday.

8 2. ~~If the (b) The~~ juvenile is alleged to have committed, ~~on or after the juvenile's 14th~~
9 ~~birthday~~, a violation, on or after the juvenile's 14th birthday at the request of or for the benefit
10 of a criminal gang, as defined in s. 939.22 (9), that would constitute a felony under chs. 939
11 to 948 or 961 if committed by an adult.

12 3. ~~If the (c) The~~ juvenile is alleged to have violated any state criminal law on or after
13 the juvenile's 15th birthday.

14 **SECTION 151.** 938.18 (1) (b) of the statutes is repealed.

15 **SECTION 152.** 938.18 (2) of the statutes is amended to read:

16 938.18 (2) PETITION. ~~The waiver hearing shall be brought on by filing a petition alleging~~
17 ~~delinquency drafted under s. 938.255 and a petition for waiver of jurisdiction which may be~~
18 filed by the district attorney or the juvenile or may be initiated by the court and shall contain
19 a brief statement of the facts supporting the request for waiver. The petition for waiver of
20 jurisdiction shall be accompanied by or filed after the filing of a petition alleging delinquency
21 and shall be filed prior to the plea hearing, except that if the juvenile denies the facts of the
22 petition and becomes 17 years of age before an adjudication, the petition for waiver of
23 jurisdiction may be filed at any time prior to the adjudication. If the court initiates the petition

1 for waiver of jurisdiction, the judge shall disqualify himself or herself from any future
2 proceedings on the case.

NOTE: Creates a provision in s. 938.18 (2) based on current s. 938.18 (1) (b), which is deleted in this draft.

3 **SECTION 153.** 938.18 (2m) (title) of the statutes is created to read:

4 938.18 (2m) (title) AGENCY REPORT.

5 **SECTION 154.** 938.18 (3) (title) and (intro.) of the statutes are created to read:

6 938.18 (3) (title) RIGHTS OF JUVENILE. (intro.) All of the following apply at a waiver
7 hearing under this section:

8 **SECTION 155.** 938.18 (3) (a), (b) and (c) of the statutes are amended to read:

9 938.18 (3) (a) The juvenile shall be represented by counsel ~~at the waiver hearing.~~
10 Written notice of the time, place, and purpose of the hearing shall be given to the juvenile, any
11 parent, guardian, or legal custodian, and counsel at least 3 days prior to the hearing. The notice
12 shall contain a statement of the requirements of s. 938.29 (2) with regard to substitution of the
13 judge. ~~Where~~ If parents entitled to notice have the same address, notice to one constitutes
14 notice to the other. Counsel for the juvenile shall have access to the social records and other
15 reports ~~consistent with~~ under s. 938.293.

16 (b) The juvenile has the right to present testimony on his or her own behalf including
17 expert testimony and has the right to cross-examine witnesses ~~at the hearing.~~

18 (c) The juvenile does not have the right to a jury ~~at a hearing under this section.~~

19 **SECTION 156.** 938.18 (4) (a) and (b) of the statutes are amended to read:

20 938.18 (4) PROSECUTIVE MERIT; CONTESTED OR UNCONTESTED PETITION. (a) The court
21 shall determine whether the matter has prosecutive merit before proceeding to determine if

1 it should waive jurisdiction. If the court determines that the matter does not have prosecutive
2 merit, it shall deny the petition for waiver.

NOTE: Clarifies s. 938.18 (4) by providing that the juvenile court must deny the petition for waiver if it determines that the matter does not have prosecutive merit.

3 (b) If a petition for waiver of jurisdiction is contested, the district attorney shall present
4 relevant testimony and the court, after taking ~~relevant~~ that testimony ~~which the district~~
5 ~~attorney shall present~~ and considering other relevant evidence, shall base its decision whether
6 to waive jurisdiction on the criteria specified in sub. (5).

7 **SECTION 157.** 938.18 (5) (title) of the statutes is created to read:

8 938.18 (5) (title) CRITERIA FOR WAIVER.

9 **SECTION 158.** 938.18 (5) (a) of the statutes is amended to read:

10 938.18 (5) (a) The personality and ~~prior record~~ of the juvenile, including whether the
11 juvenile is ~~mentally ill or developmentally disabled, whether the court has previously waived~~
12 ~~its jurisdiction over the juvenile, whether the juvenile has been previously convicted following~~
13 ~~a waiver of the court's jurisdiction or has been previously found delinquent, whether such~~
14 ~~conviction or delinquency involved the infliction of serious bodily injury, the juvenile's~~
15 ~~motives and attitudes~~ has a mental illness or developmental disability, the juvenile's physical
16 and mental maturity, and the juvenile's pattern of living, ~~prior offenses~~, prior treatment history,
17 and apparent potential for responding to future treatment.

NOTE: The stricken language beginning with "whether the court..." is included in s. 938.18 (5) (am).

18 **SECTION 159.** 938.18 (5) (am) of the statutes is created to read:

19 938.18 (5) (am) The prior record of the juvenile, including whether the court has
20 previously waived its jurisdiction over the juvenile, whether the juvenile has been previously
21 convicted following a waiver of the court's jurisdiction or has been previously found

1 delinquent, whether such conviction or delinquency involved the infliction of serious bodily
2 injury, the juvenile's motives and attitudes, and the juvenile's prior offenses.

3 **SECTION 160.** 938.18 (5) (b) of the statutes is amended to read:

4 938.18 (5) (b) The type and seriousness of the offense, including whether it was against
5 persons or property, and the extent to which it was committed in a violent, aggressive,
6 premeditated or willful manner, ~~and its prosecutive merit.~~

NOTE: Deletes the reference to "prosecutive merit" in s. 938.18 (5) (b) is
deleted because the determination of whether the matter before the court
has prosecutive merit is governed by s. 938.18 (4) (a).

7 **SECTION 161.** 938.18 (6) of the statutes is amended to read:

8 938.18 (6) DECISION ON WAIVER. After considering the criteria under sub. (5), the court
9 shall state its finding with respect to the criteria on the record, and, if the court determines on
10 the record that it there is established by clear and convincing evidence that it ~~would be~~ is
11 contrary to the best interests of the juvenile or of the public to hear the case, the court shall
12 enter an order waiving jurisdiction and referring the matter to the district attorney for
13 appropriate proceedings in the court of criminal jurisdiction, ~~and the.~~ After the order, the court
14 of criminal jurisdiction ~~thereafter~~ has exclusive jurisdiction.

15 **SECTION 162.** 938.18 (7) (title), (8) (title) and (9) (title) of the statutes are created to
16 read:

17 938.18 (7) (title) JUVENILE WHO ABSCONDS.

18 (8) (title) TRANSFER TO ADULT FACILITY; BAIL.

19 (9) (title) CRIMINAL CHARGE.

20 **SECTION 163.** 938.183 (1) (title) of the statutes is created to read:

21 938.183 (1) (title) JUVENILES UNDER ADULT COURT JURISDICTION.

22 **SECTION 164.** 938.183 (1) (a) and (am) of the statutes are amended to read:

1 938.183 (1) (a) A juvenile who has been adjudicated delinquent and who is alleged to
2 have violated s. 940.20 (1) or 946.43 while placed in a secured juvenile correctional facility,
3 a ~~secure~~ juvenile detention facility, a ~~secured child caring institution~~ or a secured group home
4 residential care center for children and youth or who has been adjudicated delinquent and who
5 is alleged to have committed a violation of s. 940.20 (2m).

6 (am) A juvenile who is alleged to have attempted or committed a violation of s. 940.01
7 or to have committed a violation of s. 940.02 or 940.05 on or after the juvenile's 10th birthday,
8 but before the juvenile's 15th birthday.

NOTE: This language is repealed to reflect the reorganization of s.
 938.183 (1m) and (2).

9 **SECTION 165.** 938.183 (1m) (intro.) and (c) 1. and 2. of the statutes are amended to read:
10 938.183 (1m) CRIMINAL PENALTIES AND PROCEDURES. (intro.) Notwithstanding subchs.
11 IV to VI, a juvenile described in sub. (1) is subject to the procedures specified in chs. 967 to
12 979 and the criminal penalties ~~provided~~ for the crime that the juvenile is alleged to have
13 committed except as follows:

14 (c) 1. The Except as provided in subd. 3., the court of criminal jurisdiction finds that
15 the juvenile has committed a lesser offense or a joined offense that is not a violation of s.
16 940.20 (1) or (2m) or 946.43 under the circumstances described in sub. (1) (a), that is not an
17 attempt to violate s. 940.01 under the circumstances described in sub. (1) (am), that is not a
18 violation of s. 940.02 or 940.05 under the circumstances described in sub. (1) (am) and that
19 is not an offense for which the court assigned to exercise jurisdiction under this chapter and
20 ch. 48 may waive its jurisdiction over the juvenile under s. 938.18.

21 2. The Except as provided in subd. 3., the court of criminal jurisdiction finds that the
22 juvenile has committed a lesser offense or a joined offense that is a violation of s. 940.20 (1)

1 or (2m) or 946.43 under the circumstances described in sub. (1) (a), that is an attempt to violate
2 s. 940.01 under the circumstances described in sub. (1) (am), that is a violation of s. 940.02
3 or 940.05 under the circumstances described in sub. (1) (am) or that is an offense for which
4 the court assigned to exercise jurisdiction under this chapter and ch. 48 may waive its
5 jurisdiction over the juvenile under s. 938.18 and the court of criminal jurisdiction, after
6 considering the criteria specified in s. 938.18 (5), determines that the juvenile has proved by
7 clear and convincing evidence that it would be in the best interests of the juvenile and of the
8 public to adjudge the juvenile to be delinquent and impose a disposition specified in s. 938.34.

9 **SECTION 166.** 938.183 (2) of the statutes is renumbered 938.183 (1m) (c) 3. and
10 amended to read:

11 938.183 (1m) (c) 3. Notwithstanding ss. 938.12 (1) and 938.18, courts of criminal
12 jurisdiction have exclusive original jurisdiction over For a juvenile who is alleged to have
13 attempted or committed a violation of s. 940.01 or to have committed a violation of s. 940.02
14 or 940.05 on or after the juvenile's 15th birthday. Notwithstanding ss. 938.12 (1) and 938.18,
15 courts of criminal jurisdiction also have exclusive original jurisdiction over a juvenile
16 specified in the preceding sentence who is alleged to have attempted or committed a violation
17 of any state law in addition to the violation alleged under the preceding sentence if the
18 violation alleged under this sentence and the violation alleged under the preceding sentence
19 may be joined under s. 971.12 (1). Notwithstanding subchs. IV to VI, a juvenile who is alleged
20 to have attempted or committed a violation of s. 940.01 or to have committed a violation of
21 s. 940.02 or 940.05 on or after the juvenile's 15th birthday and a juvenile who is alleged to have
22 attempted or committed a violation of any state criminal law, if that violation and an attempt
23 to commit a violation of s. 940.01 or the commission of a violation of s. 940.01, 940.02 or
24 940.05 may be joined under s. 971.12 (1), is subject to the procedures specified in chs. 967

1 to 979 and the criminal penalties provided for the crime that the juvenile is alleged to have
2 committed, except that the court of criminal jurisdiction shall, in lieu of convicting the
3 juvenile, adjudge the juvenile to be delinquent and impose a disposition specified in s. 938.34
4 if, the court of criminal jurisdiction finds that the juvenile has committed a lesser offense than
5 the offense alleged under this subsection or has committed an offense that is joined under s.
6 971.12 (1) to an attempt to commit a violation of s. 940.01 or to the commission of a violation
7 of s. 940.01, 940.02 or 940.05, but has not attempted to commit a violation of s. 940.01 or
8 committed a violation of s. 940.01, 940.02 or 940.05, and the court of criminal jurisdiction,
9 after considering the criteria specified in under s. 938.18 (5), determines that the juvenile has
10 proved by clear and convincing evidence that it would be in the best interests of the juvenile
11 and of the public to adjudge the juvenile to be delinquent and impose a disposition specified
12 in under s. 938.34.

13 **SECTION 167.** 938.183 (3) of the statutes is amended to read:

14 938.183 (3) PLACEMENT IN STATE PRISON; PAROLE. When a juvenile who is subject to a
15 criminal penalty under sub. (1m) ~~or (2)~~ or s. 938.183 (2), 2003 stats., attains the age of 17 years,
16 the department may place the juvenile in a state prison named in s. 302.01, except that the
17 department may not place any person under the age of 18 years in the correctional institution
18 authorized in s. 301.16 (1n). ~~If a juvenile who is subject to a criminal penalty under sub. (1m)~~
19 ~~or (2) is 15 years of age or over, the department may transfer the juvenile to the Racine youthful~~
20 ~~offender correctional facility named in s. 302.01 as provided in s. 938.357 (4) (d).~~ A juvenile
21 who is subject to a criminal penalty under sub. (1m) ~~or (2)~~ or under s. 938.183 (2), 2003 stats.,
22 for an act committed before December 31, 1999, is eligible for parole under s. 304.06.

NOTE: Repeals the second-to-last sentence because the mechanism for transferring juveniles to the Racine youthful offender correctional

facility under s. 938.357 (4) (d) is repealed in this draft. See the note to s. 938.357 (4) (d) in this draft.

1 **SECTION 168.** 938.183 (4) (title) of the statutes is created to read:

2 938.183 (4) (title) CHILD SUPPORT.

3 **SECTION 169.** 938.185 (1) (title) of the statutes is created to read:

4 938.185 (1) (title) PROCEEDINGS GENERALLY.

5 **SECTION 170.** 938.185 (2) of the statutes is amended to read:

6 938.185 (2) REVISION AND EXTENSION OF ORDERS. Venue for any proceeding under s.

7 938.363 or 938.365 shall be in the county where the dispositional order was issued, unless the

8 juvenile's county of residence has changed, or the parent of the juvenile has resided in a

9 different county of this state for at least 6 months. In either case, the court may, upon a motion

10 and for good cause shown, transfer the case, along with all appropriate records, to the county

11 of residence of the juvenile or parent.

12 **SECTION 171.** 938.185 (3) (title) and (4) (title) of the statutes are created to read:

13 938.185 (3) (title) SEX OFFENDER REGISTRY VIOLATIONS.

14 (4) (title) AMERICAN INDIAN JUVENILES.

15 **SECTION 172.** 938.19 (1) (title) of the statutes is created to read:

16 938.19 (1) (title) CRITERIA.

17 **SECTION 173.** 938.19 (1) (b) and (c) of the statutes are amended to read:

18 938.19 (1) (b) A capias issued by a judge court under s. 938.28.

19 (c) ~~An~~ A court order of the judge if made upon there is a showing satisfactory to the

20 judge that the welfare of the juvenile demands that the juvenile be immediately removed from

21 his or her present custody. The order shall specify that the juvenile be held in custody under

22 s. 938.207.

1 **SECTION 174.** 938.19 (1) (d) 1., 6. and 7. of the statutes are amended to read:

2 938.19 (1) (d) 1. A capias or a warrant for the juvenile's apprehension has been issued
3 in this state, or that the juvenile is a fugitive from justice.

4 6. The juvenile has violated a condition of court-ordered supervision or aftercare
5 supervision administered by the department or a county department, a condition of the
6 juvenile's placement in a Type 2 ~~secured juvenile~~ correctional facility or a Type 2 ~~child-caring~~
7 ~~institution~~ residential care center for children and youth, or a condition of the juvenile's
8 participation in the intensive supervision program under s. 938.534.

9 7. The juvenile has violated the conditions of an order under s. 938.21 (4) or the
10 conditions of an order for temporary physical custody issued by an intake worker.

11 **SECTION 175.** 938.19 (1m) and (2) of the statutes are amended to read:

12 938.19 (1m) TRUANCY. A juvenile who is absent from school without an acceptable
13 excuse under s. 118.15 may be taken into custody by an individual designated under s. 118.16
14 (2m) (a) if the school attendance officer of the school district in which the juvenile resides,
15 or the juvenile's parent, guardian, or legal custodian, requests that the juvenile be taken into
16 custody. The request shall specifically identify the juvenile.

17 (2) NOTIFICATION OF PARENT, GUARDIAN, LEGAL CUSTODIAN. When a juvenile is taken into
18 physical custody ~~as provided in~~ under this section, the person taking the juvenile into custody
19 shall immediately attempt to notify the parent, guardian, and legal custodian of the juvenile
20 by the most practical means. The person taking the juvenile into custody shall continue such
21 attempt until the parent, guardian, and legal custodian of the juvenile are notified, or the
22 juvenile is delivered to an intake worker under s. 938.20 (3), whichever occurs first. If the
23 juvenile is delivered to the intake worker before the parent, guardian, and legal custodian are

1 notified, the intake worker, or another person at his or her direction, shall continue the attempt
2 to notify until the parent, guardian, and legal custodian of the juvenile are notified.

3 **SECTION 176.** 938.19 (3) (title) of the statutes is created to read:

4 938.19 (3) (title) NOT AN ARREST.

5 **SECTION 177.** 938.20 (2) (title) of the statutes is created to read:

6 938.20 (2) (title) RELEASE OF JUVENILE.

7 **SECTION 178.** 938.20 (2) (cm), (d) and (f) 2. of the statutes are amended to read:

8 938.20 (2) (cm) If the juvenile has violated a condition of aftercare supervision
9 administered by the department or a county department, a condition of the juvenile's
10 placement in a Type 2 secured juvenile correctional facility or a Type 2 child-caring institution
11 residential care center for children and youth, or a condition of the juvenile's participation in
12 the intensive supervision program under s. 938.534, the person who took the juvenile into
13 custody may release the juvenile to the department or county department, whichever has
14 supervision over the juvenile.

15 (d) If the juvenile is a runaway, the person who took the juvenile into custody may
16 release the juvenile to a home authorized under s. 48.227.

17 (f) 2. Make a determination of whether the juvenile is a child at risk, ~~as defined in~~ under
18 s. 118.153 (1) (a), unless that determination has been made within the current school semester.
19 If a juvenile is determined to be a child at risk under this subdivision, the school administrator
20 shall provide a program for the juvenile according to the plan developed under s. 118.153 (2)
21 (a).

22 **SECTION 179.** 938.20 (3) of the statutes is amended to read:

23 938.20 (3) NOTIFICATION TO PARENT, GUARDIAN, LEGAL CUSTODIAN OF RELEASE. If the
24 juvenile is released under sub. (2) (b) to (d) or (g), the person who took the juvenile into

1 custody shall immediately notify the juvenile's parent, guardian, and legal custodian of the
2 time and circumstances of the release and the person, if any, to whom the juvenile was
3 released. If the juvenile is not released under sub. (2), the person who took the juvenile into
4 custody shall arrange in a manner determined by the court and law enforcement agencies for
5 the juvenile to be interviewed by the intake worker under s. 938.067 (2), and. The person who
6 took the juvenile into custody shall make a statement in writing with supporting facts of the
7 reasons why the juvenile was taken into physical custody and shall give ~~any juvenile 10 years~~
8 ~~of age or older~~ a copy of the statement ~~in addition to giving a copy to the intake worker and~~
9 to any juvenile 10 years of age or older. ~~When~~ If the intake interview is not done in person,
10 the report may be read to the intake worker.

11 **SECTION 180.** 938.20 (4) (title) of the statutes is created to read:

12 938.20 (4) (title) DELIVERY TO HOSPITAL OR PHYSICIAN.

13 **SECTION 181.** 938.20 (5) of the statutes is amended to read:

14 938.20 (5) (title) EMERGENCY DETENTION OF JUVENILE. If the juvenile is believed to have
15 a mental illness or developmental disability or to be mentally ill, drug dependent, ~~or~~
16 ~~developmentally disabled, and;~~ exhibits conduct which constitutes a substantial probability
17 of physical harm to the juvenile or to others, or a very substantial probability of physical
18 impairment or injury to the juvenile exists due to the impaired judgment of the juvenile; and
19 the standards of s. 51.15 are met, the person taking the juvenile into physical custody, the
20 intake worker, or other appropriate person shall proceed under s. 51.15.

21 **SECTION 182.** 938.20 (6) (title) and (7) (title) of the statutes are created to read:

22 938.20 (6) (title) DELIVERY OF INTOXICATED JUVENILE.

23 (7) (title) DUTIES OF INTAKE WORKER.

24 **SECTION 183.** 938.20 (7) (a) and (b) of the statutes are amended to read:

1 938.20 (7) (a) When a juvenile possibly involved in a delinquent act is interviewed by
2 an intake worker, the intake worker shall inform ~~any the juvenile possibly involved in a~~
3 ~~delinquent act~~ of his or her right to counsel and the right against self-incrimination.

4 (b) The intake worker shall review the need to hold the juvenile in custody and shall
5 make every effort to release the juvenile from custody as provided in par. (c). The intake
6 worker shall base his or her decision as to whether to release the juvenile or to continue to hold
7 the juvenile in custody on the criteria ~~specified~~ under in s. 938.205 and criteria established
8 under s. 938.06 (1) or (2).

9 **SECTION 184.** 938.20 (7) (c) 1., 1m. and 2. of the statutes are amended to read:

10 938.20 (7) (c) 1. To a parent, guardian, or legal custodian,; or, if the parent, guardian,
11 or legal custodian is unavailable, unwilling, or unable to provide supervision for the juvenile,
12 ~~release the juvenile~~ to a responsible adult, counseling or warning the juvenile as may be
13 appropriate,; or, if the juvenile is 15 years of age or older, ~~release the juvenile~~ without
14 immediate adult supervision, counseling or warning the juvenile as may be appropriate.

15 1m. In the case of a juvenile who has violated a condition of aftercare supervision
16 administered by the department or a county department, a condition of the juvenile's
17 placement in a Type 2 ~~secured juvenile~~ correctional facility or a Type 2 ~~child caring institution~~
18 residential care center for children and youth, or a condition of the juvenile's participation in
19 the intensive supervision program under s. 938.534, to the department or county department,
20 whichever has supervision of the juvenile.

21 2. In the case of a runaway juvenile, to a home authorized under s. 48.227.

22 **SECTION 185.** 938.20 (8) of the statutes is renumbered 938.20 (8) (a) and amended to
23 read:

1 938.20 (8) NOTIFICATION THAT HELD IN CUSTODY. (a) If a juvenile is held in custody, the
2 intake worker shall notify the juvenile's parent, guardian, and legal custodian of the reasons
3 for holding the juvenile in custody and of the juvenile's whereabouts unless there is reason to
4 believe that notice would present imminent danger to the juvenile. ~~If a juvenile who has~~
5 ~~violated a condition of aftercare supervision administered by the department or a county~~
6 ~~department, a condition of the juvenile's placement in a Type 2 secured correctional facility~~
7 ~~or a Type 2 child caring institution, or a condition of the juvenile's participation in the intensive~~
8 ~~supervision program under s. 938.534 is held in custody, the intake worker shall also notify~~
9 ~~the department or county department, whichever has supervision over the juvenile, of the~~
10 ~~reasons for holding the juvenile in custody, of the juvenile's whereabouts, and of the time and~~
11 ~~place of the detention hearing required under s. 938.21. The parent, guardian, and legal~~
12 ~~custodian shall also be notified of the time and place of the detention hearing required under~~
13 ~~s. 938.21, the nature and possible consequences of that the hearing, and the right to present~~
14 ~~and cross-examine witnesses at the hearing. If the parent, guardian, or legal custodian is not~~
15 ~~immediately available, the intake worker or another person designated by the court shall~~
16 ~~provide notice as soon as possible. When~~

NOTE: The stricken language in s. 938.20 (8) (a) is included in new s.
 938.20 (8) (c).

17 (b) If the juvenile is alleged to have committed a delinquent act, the juvenile shall
18 receive the same notice about the detention hearing as the parent, guardian, or legal custodian.
19 The intake worker shall notify both the juvenile and the juvenile's parent, guardian, or legal
20 custodian.

21 **SECTION 186.** 938.20 (8) (c) of the statutes is created to read:

1 938.20 (8) (c) If a juvenile who has violated a condition of aftercare supervision
2 administered by the department or a county department, a condition of the juvenile's
3 placement in a Type 2 secured correctional facility or a Type 2 residential care center for
4 children and youth, or a condition of the juvenile's participation in the intensive supervision
5 program under s. 938.534 is held in custody, the intake worker shall also notify the department
6 or county department, whichever has supervision over the juvenile, of the reasons for holding
7 the juvenile in custody, of the juvenile's whereabouts, and of the time and place of the
8 detention hearing required under s. 938.21.

9 **SECTION 187.** 938.205 of the statutes is amended to read:

10 **938.205 Criteria for holding a juvenile in physical custody. (1) CRITERIA.** A juvenile
11 may be held under s. 938.207, 938.208, or 938.209 (1) if the intake worker determines that
12 there is probable cause to believe the juvenile is within the jurisdiction of the court and if
13 probable cause exists to believe any of the following:

14 (a) ~~That if the~~ The juvenile ~~is not held he or she~~ will commit injury to the person or
15 property of others if not held.

16 (b) ~~That the~~ The parent, guardian, or legal custodian of the juvenile or other
17 responsible adult is neglecting, refusing, unable, or unavailable to provide adequate
18 supervision and care and ~~that~~ services to ensure the juvenile's safety and well-being are not
19 available or would be inadequate.

20 (c) ~~That the~~ The juvenile will run away or be taken away so as to be unavailable for
21 proceedings of the court or its officers, proceedings of the division of hearings and appeals in
22 the department of administration for revocation of aftercare supervision, or action by the
23 department or county department relating to a violation of a condition of the juvenile's
24 placement in a Type 2 secured juvenile correctional facility or a Type 2 ~~child-caring institution~~

1 residential care center for children and youth or a condition of the juvenile's participation in
2 the intensive supervision program under s. 938.534.

3 (2) APPLICABILITY. The criteria for holding a juvenile in custody ~~specified in~~ under this
4 section shall govern the decision of all persons responsible for determining whether the action
5 is appropriate.

6 **SECTION 188.** 938.207 (1) (title) of the statutes is created to read:

7 938.207 (1) (title) WHERE MAY BE HELD.

8 **SECTION 189.** 938.207 (1) (c), (cm) and (f) and (2) of the statutes are amended to read:

9 938.207 (1) (c) A licensed foster home or a licensed treatment foster home ~~provided~~
10 if the placement does not violate the conditions of the license.

11 (cm) A licensed group home ~~provided that~~ if the placement does not violate the
12 conditions of the license.

13 (f) The home of a person not a relative, ~~if the placement does not exceed 30 days, though~~
14 ~~the placement may be extended for an additional 30 days for cause by the court, and if the~~
15 ~~person has not had a foster home or treatment foster home license refused, revoked, or~~
16 ~~suspended within the last previous 2 years. Such a placement may not exceed 30 days, unless~~
17 the placement is extended by the court for cause for an additional 30 days.

18 (2) PAYMENT. If a facility listed in sub. (1) (b) to (k) is used to hold juveniles a juvenile
19 in custody, or if supervisory services of a home detention program are provided to juveniles
20 a juvenile held under sub. (1) (a), ~~its authorized rate shall be paid by the county~~ shall pay the
21 facility's authorized rate for the care of the juvenile. If no authorized rate has been established,
22 the court shall fix a reasonable sum ~~to be fixed by the court~~ shall be paid by the county for the
23 supervision or care of the juvenile.

24 **SECTION 190.** 938.208 (1) (intro.) and (2) of the statutes are amended to read:

1 938.208 (1) (intro.) DELINQUENT ACT AND RISK OF HARM OR RUNNING AWAY. Probable
2 cause exists to believe that the juvenile has committed a delinquent act and either presents a
3 substantial risk of physical harm to another person or a substantial risk of running away so as
4 to be unavailable for a court hearing, a revocation of aftercare supervision hearing, or action
5 by the department or county department relating to a violation of a condition of the juvenile's
6 placement in a Type 2 ~~secured juvenile~~ correctional facility or a Type 2 ~~child-caring institution~~
7 residential care center for children and youth or a condition of the juvenile's participation in
8 the intensive supervision program under s. 938.534. For juveniles who have been adjudged
9 delinquent, the delinquent act referred to in this section may be the act for which the juvenile
10 was adjudged delinquent. If the intake worker determines that any of the following conditions
11 applies, the juvenile is considered to present a substantial risk of physical harm to another
12 person:

13 (2) RUNAWAY FROM ANOTHER STATE OR SECURE CUSTODY. Probable cause exists to believe
14 that the juvenile is a fugitive from another state or has run away from a ~~secured juvenile~~
15 ~~correctional facility, a secured child-caring institution or a secured group home~~ residential care
16 center for children and youth and there has been no reasonable opportunity to return the
17 juvenile.

18 **SECTION 191.** 938.208 (3), (4) and (5) of the statutes are amended to read:

19 938.208 (3) PROTECTIVE CUSTODY. The juvenile consents in writing to being held in
20 order to protect him or her from an imminent physical threat from another and such secure
21 custody is ordered by the ~~judge~~ court in a protective order.

22 (4) RUNAWAY FROM NONSECURE CUSTODY. Probable cause exists to believe that the
23 juvenile, having been placed in nonsecure custody by an intake worker under s. 938.207 or

1 by the ~~judge or circuit court commissioner~~ under s. 938.21 (4), has run away or committed a
2 delinquent act and no other suitable alternative exists.

3 (5) RUNAWAY FROM ANOTHER COUNTY. Probable cause exists to believe that the juvenile
4 has been adjudged or alleged to be delinquent and has run away from another county and
5 would run away from nonsecure custody pending his or her return. A juvenile may be held
6 in secure custody under this subsection for no more than 24 hours after the end of the day that
7 the decision to hold the juvenile was made unless an extension of those 24 hours is ordered
8 by the ~~judge~~ court for good cause shown. Only one extension may be ordered ~~by the judge~~.

9 **SECTION 192.** 938.208 (6) (title) of the statutes is created to read:

10 938.208 (6) (title) SUBJECT TO JURISDICTION OF ADULT COURT.

11 **SECTION 193.** 938.209 (1) (title) of the statutes is created to read:

12 938.209 (1) (title) COUNTY JAIL.

13 **SECTION 194.** 938.209 (1) (a) 5. of the statutes is amended to read:

14 938.209 (1) (a) 5. The ~~judge~~ court reviews the status of the juvenile every 3 days.

15 **SECTION 195.** 938.209 (1) (b) of the statutes is amended to read:

16 938.209 (1) (b) The juvenile presents a substantial risk of physical harm to other persons
17 in the ~~secure~~ juvenile detention facility, as evidenced by previous acts or attempts, which can
18 only be avoided by transfer to the jail. The conditions of par. (a) 1. to 5. shall be met. The
19 juvenile shall be given a hearing and may be transferred only upon a court order ~~of the judge~~.

20 **SECTION 196.** 938.209 (2m) (title) and (3) (title) of the statutes are created to read:

21 938.209 (2m) (title) MUNICIPAL LOCKUP.

22 (3) (title) JUVENILES UNDER ADULT COURT JURISDICTION.

23 **SECTION 197.** 938.21 (1) of the statutes is amended to read:

1 938.21 (1) HEARING; WHEN HELD. (a) If a juvenile who has been taken into custody is
2 not released under s. 938.20, a hearing to determine whether to continue to hold the juvenile
3 ~~shall continue to be held~~ in custody under the criteria of ss. 938.205 to 938.209 (1) shall be
4 conducted ~~by the judge or circuit court commissioner~~ by the court within 24 hours after the
5 end of the day that the decision to hold the juvenile was made, excluding Saturdays, Sundays,
6 and legal holidays. By the time of the hearing a petition under s. 938.25 or a request for a
7 change in placement under s. 938.357, a request for a revision of the dispositional order under
8 s. 938.363, or a request for an extension of a dispositional order under s. 938.365 shall be filed,
9 ~~except that. However,~~ no petition or request need be filed ~~where~~ if a juvenile is taken into
10 custody under s. 938.19 (1) (b) or (d) 2., 6., or 7. or ~~where~~ if the juvenile is a runaway from
11 another state, in which case a written statement of the reasons for holding a juvenile in custody
12 shall be substituted if the petition is not filed. If no hearing has been held within 24 hours or
13 if no petition, request, or statement has been filed at the time of the hearing, the juvenile shall
14 be released except as provided in par. (b). ~~A parent not present at the hearing~~ The court shall
15 ~~be granted~~ grant a rehearing upon request of a parent not present at the hearing for good cause
16 shown.

NOTE: Modifies s. 938.21 (1) (a) so that a request for a change in placement, a request for a revision of the dispositional order, or a request for an extension of a dispositional order may be filed instead of a delinquency or juvenile in need of protection or services (JIPS) petition.

17 (b) If no petition or request has been filed by the time of the hearing, a juvenile may be
18 held in custody with the approval of the ~~judge or circuit court commissioner~~ for an additional
19 48 hours from the time of the hearing only if, as a result of the facts brought forth at the hearing,
20 the ~~judge or circuit court commissioner~~ determines that probable cause exists to believe that
21 the juvenile is an imminent danger to himself or herself or to others, or that probable cause

1 exists to believe that the parent, guardian, or legal custodian of the juvenile or other
2 responsible adult is neglecting, refusing, unable, or unavailable to provide adequate
3 supervision and care. The extension may be granted only once for any petition. ~~In the event~~
4 ~~of failure to file~~ If a petition or request is not filed within the 48-hour extension period
5 provided for in under this paragraph, the judge or circuit court commissioner shall order the
6 juvenile's immediate release from custody.

7 **SECTION 198.** 938.21 (2) (b), (c) and (d) of the statutes are amended to read:

8 938.21 (2) (b) A copy of the petition or request shall be given to the juvenile at or prior
9 to the time of the hearing. Prior notice of the hearing shall be given to the juvenile's parent,
10 guardian, and legal custodian and to the juvenile ~~in accordance with~~ under s. 938.20 (8).

11 (c) Prior to the commencement of the hearing, the juvenile ~~shall be informed by the~~
12 ~~judge or circuit court commissioner~~ shall inform the juvenile of the allegations that have been
13 or may be made, the nature and possible consequences of this hearing as compared to possible
14 future hearings, the provisions of s. 938.18 if applicable, the right to counsel under s. 938.23
15 regardless of ability to pay if the juvenile is not yet represented by counsel, the right to remain
16 silent, the fact that the silence may not be adversely considered by the ~~judge or circuit court~~
17 ~~commissioner~~, the right to confront and cross-examine witnesses, and the right to present
18 witnesses.

19 (d) If the juvenile is not represented by counsel at the hearing and the juvenile is
20 continued in custody as a result of the hearing, the juvenile may request through counsel
21 subsequently appointed or retained or through a guardian ad litem that the order to hold in
22 custody be reheard. If the request is made, a rehearing shall take place as soon as possible.
23 ~~Whether or not counsel was present, any~~ Any order to hold the juvenile in custody shall be
24 ~~subject to rehearing~~ reheard for good cause whether or not counsel was present.

1 **SECTION 199.** 938.21 (3) (b), (d) and (e) of the statutes are amended to read:

2 938.21 (3) (b) If present at the hearing, a copy of the petition or request shall be given
3 to the parent, guardian, or legal custodian, and to the juvenile if he or she is 12 years of age
4 or older, before the hearing begins. Prior notice of the hearing shall be given to the juvenile's
5 parent, guardian, and legal custodian and to the juvenile if he or she is 12 years of age or older
6 ~~in accordance with~~ under s. 938.20 (8).

7 (d) Prior to the commencement of the hearing, the court shall inform the parent,
8 guardian, or legal custodian ~~shall be informed by the court~~ of the allegations that have been
9 made or may be made, the nature and possible consequences of this hearing as compared to
10 possible future hearings, the right to confront and cross-examine witnesses, and the right to
11 present witnesses.

12 (e) If the parent, guardian, or legal custodian or the juvenile is not represented by
13 counsel at the hearing and the juvenile is continued in custody as a result of the hearing, the
14 parent, guardian, legal custodian, or juvenile may request through counsel subsequently
15 appointed or retained or through a guardian ad litem that the order to hold the juvenile in
16 custody be reheard. If the request is made, a rehearing shall take place as soon as possible.
17 ~~Any~~ An order to hold the juvenile in custody shall be ~~subject to rehearing~~ reheard for good
18 cause, whether or not counsel was present.

19 **SECTION 200.** 938.21 (4) (intro.) of the statutes is amended to read:

20 938.21 (4) ORDER TO CONTINUE IN CUSTODY. (intro.) If the judge ~~or circuit court~~
21 ~~commissioner~~ finds that the juvenile should be continued in custody under the criteria of s.
22 938.205, ~~he or she~~ the court shall enter one of the following orders:

23 **SECTION 201.** 938.21 (4) (a) and (4m) of the statutes are amended to read:

1 938.21 (4) (a) Place the juvenile with a parent, guardian, legal custodian, or other
2 responsible person ~~and may~~; impose reasonable restrictions on the juvenile's travel,
3 association with other persons, or places of abode during the period of placement, including
4 a condition requiring the juvenile to return to other custody as requested; or subject the
5 juvenile to the supervision of an agency agreeing to supervise the juvenile. Reasonable
6 restrictions may be placed upon the conduct of the parent, guardian, legal custodian, or other
7 responsible person which may be necessary to ensure the safety of the juvenile.

8 (4m) ELECTRONIC MONITORING. ~~The judge or circuit court commissioner may include~~
9 ~~in an~~ An order under sub. (4) (a) or (b) may include a condition that the juvenile be monitored
10 by an electronic monitoring system.

11 **SECTION 202.** 938.21 (5) (b) 1. and 3. of the statutes are amended to read:

12 938.21 (5) (b) 1. A finding that continued placement of the juvenile in his or her home
13 would be contrary to the welfare of the juvenile. Unless the ~~judge or circuit court~~
14 ~~commissioner~~ finds that any of the circumstances specified in s. 938.355 (2d) (b) 1. to 4.
15 applies, the order shall in addition include a finding as to whether the person who took the
16 juvenile into custody and the intake worker have made reasonable efforts to prevent the
17 removal of the juvenile from the home, while assuring that the juvenile's health and safety are
18 the paramount concerns, and a finding as to whether the person who took the juvenile into
19 custody and the intake worker have made reasonable efforts to make it possible for the juvenile
20 to return safely home ~~or, if,~~ If for good cause shown sufficient information is not available
21 for the ~~judge or circuit court commissioner~~ to make a finding as to whether those reasonable
22 efforts were made to prevent the removal of the juvenile from the home, the order shall include
23 a finding as to whether those reasonable efforts were made to make it possible for the juvenile
24 to return safely home and an order for the county department or agency primarily responsible

1 for providing services to the juvenile under the custody order to file with the court sufficient
2 information for the ~~judge or circuit court commissioner~~ to make a finding as to whether those
3 reasonable efforts were made to prevent the removal of the juvenile from the home by no later
4 than 5 days, excluding Saturdays, Sundays, and legal holidays, after the date of the order.

NOTE: Revises s. 938.21 (5) (b) 1. by specifying that the 5-day time limit to make a finding following the custody hearing as to whether reasonable efforts were made to prevent removal of the juvenile from the home excludes Saturdays, Sundays, and legal holidays.

5 3. If the ~~judge or circuit court commissioner~~ finds that any of the circumstances
6 specified in s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent, a determination that
7 the county department or agency primarily responsible for providing services under the
8 custody order is not required to make reasonable efforts with respect to the parent to make it
9 possible for the juvenile to return safely to his or her home.

10 **SECTION 203.** 938.21 (5) (c) and (d) 1. of the statutes are amended to read:

11 938.21 (5) (c) The ~~judge or circuit court commissioner~~ shall make the findings specified
12 in par. (b) 1. and 3. on a case-by-case basis based on circumstances specific to the juvenile
13 and shall document or reference the specific information on which those findings are based
14 in the custody order. A custody order that merely references par. (b) 1. or 3. without
15 documenting or referencing that specific information in the custody order or an amended
16 custody order that retroactively corrects an earlier custody order that does not comply with
17 this paragraph is not sufficient to comply with this paragraph.

18 (d) 1. If the ~~judge or circuit court commissioner~~ finds that any of the circumstances
19 specified in s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent, the ~~judge or circuit~~
20 ~~commissioner~~ shall hold a hearing within 30 days after the date of that finding to determine
21 the permanency plan for the juvenile. If a hearing is held under this subdivision, the agency

1 responsible for preparing the permanency plan shall file the permanency plan with the court
2 not less than 5 days before the date of the hearing.

3 **SECTION 204.** 938.21 (6) of the statutes is amended to read:

4 938.21 (6) AMENDMENT OF ORDER. An order placing a juvenile under sub. (4) (a) on
5 conditions specified in this section may at any time be amended at any time, with notice, so
6 as to ~~return~~ place the juvenile to in another form of custody for failure to conform to the
7 conditions originally imposed. A juvenile may be transferred to secure custody if he or she
8 meets the criteria of s. 938.208.

9 **SECTION 205.** 938.21 (7) of the statutes is amended to read:

10 938.21 (7) DEFERRED PROSECUTION. If the ~~judge or circuit court commissioner~~
11 determines that the best interests of the juvenile and the public are served, ~~he or she~~ the court
12 may enter a consent decree under s. 938.32 or order dismiss the petition ~~dismissed~~ and refer
13 the matter to the intake worker for deferred prosecution in accordance with s. 938.245.

14 **SECTION 206.** 938.22 (title) of the statutes is amended to read:

15 **938.22 (title) ~~Establishment of county or~~ County and private juvenile facilities.**

16 **SECTION 207.** 938.22 (1) (title) of the statutes is created to read:

17 938.22 (1) (title) ESTABLISHMENT AND POLICIES.

18 **SECTION 208.** 938.22 (1) (a), (b) and (c) of the statutes are amended to read:

19 938.22 (1) (a) Subject to s. 48.66 (1) (b), the county board of supervisors of ~~any a~~ a county
20 may establish a ~~secured group home or a secure~~ juvenile detention facility in accordance with
21 ss. 301.36 and 301.37 or the county boards of supervisors for 2 or more counties may jointly
22 establish a ~~secured group home or a secure~~ juvenile detention facility in accordance with ss.
23 46.20, 301.36, and 301.37. The county board of supervisors of ~~any a~~ a county may establish
24 a shelter care facility in accordance with ss. 46.16 and 46.17 or the county boards of

1 supervisors for 2 or more counties may jointly establish a shelter care facility in accordance
2 with ss. 46.16, 46.17, and 46.20. A private entity may establish a secure juvenile detention
3 facility in accordance with ss. 301.36 and 301.37 and contract with one or more county boards
4 of supervisors under s. 938.222 ~~for holding~~ to hold juveniles in the private secure juvenile
5 detention facility.

6 (b) Subject to sub. (3) (ar), in counties having a population of less than 500,000, the
7 nonjudicial operational policies of a public ~~secured group home~~, secure juvenile detention
8 facility or shelter care facility shall be determined by the county board of supervisors or, in
9 the case of a public ~~secured group home~~, secure juvenile detention facility or shelter care
10 facility established by 2 or more counties, by the county boards of supervisors for the 2 or more
11 counties jointly. Those policies shall be executed by the superintendent appointed under sub.

12 (3) (a).

13 (c) In counties having a population of 500,000 or more, the nonjudicial operational
14 policies of a public ~~secured group home~~, secure detention facility and the detention section
15 of the children's court center shall be established by the county board of supervisors, and the
16 ~~execution thereof~~ policies shall be the responsibility of ~~executed by~~ the director of the
17 children's court center.

18 **SECTION 209.** 938.22 (2) (title) of the statutes is created to read:

19 938.22 (2) (title) PLANS AND REQUIREMENTS.

20 **SECTION 210.** 938.22 (2) (a) and (b) of the statutes are amended to read:

21 938.22 (2) (a) Counties shall submit plans for the ~~secured group home~~, secure a juvenile
22 detention facility or juvenile portion of the county jail to the department of corrections and
23 submit plans for ~~the~~ a shelter care facility to the department of health and family services. A
24 private entity that proposes to establish a secure juvenile detention facility shall submit plans

1 for the ~~secure detention~~ facility to the department of corrections. The applicable department
2 shall review the submitted plans. A county or a private entity may not implement ~~any such~~
3 ~~a~~ plan unless the applicable department has approved the plan. The department of corrections
4 shall promulgate rules establishing minimum requirements for the approval of the and
5 operation of ~~secured group homes, secure~~ juvenile detention facilities and the juvenile portion
6 of county jails. The plans and rules shall be designed to protect the health, safety, and welfare
7 of the juveniles placed in those facilities.

8 (b) If the department approves, a ~~secure~~ juvenile detention facility or a holdover room
9 may be ~~a part of~~ located in a public building in which there is a jail or other facility for the
10 detention of adults if the ~~secure~~ juvenile detention facility or holdover room is so physically
11 segregated from the jail or other facility so that juveniles may enter the secure juvenile
12 detention facility or holdover room ~~may be entered~~ without passing through areas where
13 adults are confined and ~~that juveniles detained in the secure juvenile detention facility or~~
14 holdover room cannot communicate with or view adults confined therein in the jail or other
15 facility.

16 **SECTION 211.** 938.22 (3) (title) of the statutes is created to read:

17 938.22 (3) (title) SUPERVISION OF FACILITY.

18 **SECTION 212.** 938.22 (3) of the statutes is amended to read:

19 938.22 (3) (a) In counties having a population of less than 500,000, public ~~secured~~
20 ~~group homes, secure~~ juvenile detention facilities and public shelter care facilities shall be in
21 the charge of a superintendent. The county board of supervisors or, where 2 or more counties
22 operate joint public ~~secured group homes, secure~~ juvenile detention facilities or shelter care
23 facilities, the county boards of supervisors for the 2 or more counties jointly shall appoint the
24 superintendent and other necessary personnel for the care and education of the juveniles

1 placed in those facilities, subject to par. (am) and to civil service regulations in counties having
2 civil service.

3 (am) If a ~~secure~~ juvenile detention facility or holdover room is part of a public building
4 in which there is a jail or other facility for the detention of adults, the sheriff or other keeper
5 of the jail or other facility for the detention of adults may nominate persons to be considered
6 ~~under par. (a)~~ for the position of superintendent of the ~~secure~~ juvenile detention facility or
7 holdover room. Nominees under this paragraph shall have demonstrated administrative
8 abilities and ~~a demonstrated interest in the problems of juvenile justice and the welfare of~~
9 juveniles.

10 (ar) Notwithstanding sub. (1) (b), if a ~~secure~~ juvenile detention facility or holdover
11 room is ~~part of~~ located in a public building in which there is a jail or other facility for the
12 detention of adults, the sheriff or other keeper of the jail or other facility for the detention of
13 adults shall determine the security and emergency response policies of that ~~secure~~ juvenile
14 detention facility or holdover room ~~relating to security and emergency response~~ and shall
15 determine the procedures for implementing those policies.

16 (b) In counties having a population of 500,000 or more, the director of the children's
17 court center shall be in charge of and responsible for public ~~secured group homes, secure~~
18 juvenile detention facilities, the ~~secure~~ juvenile detention section of the center, and the
19 personnel assigned to this section, including a detention supervisor or superintendent. The
20 director of the children's court center may also serve as superintendent of detention if the
21 county board of supervisors so determines.

22 (bm) A private ~~secure~~ juvenile detention facility shall be in the charge of a
23 superintendent appointed by the private entity operating the secure detention facility.

1 (c) ~~All superintendents~~ A superintendent appointed under par. (a), (b), or (bm) after
2 May 1, 1992, shall, within one year after that appointment, successfully complete an
3 administrative training program approved or provided by the department of justice.

4 **SECTION 213.** 938.22 (5) (title) and (7) (title) of the statutes are created to read:

5 938.22 (5) (title) COUNTY CONTRACTS WITH PRIVATE FACILITIES.

6 (7) (title) LICENSING OF SHELTER CARE FACILITIES.

7 **SECTION 214.** 938.22 (7) (a) and (b) of the statutes are amended to read:

8 938.22 (7) (a) No person may establish a shelter care facility without first obtaining
9 a license under s. 48.66 (1) (a). To obtain a license under s. 48.66 (1) (a) to operate a shelter
10 care facility, a person must meet the minimum requirements for a license established by the
11 department of health and family services under s. 48.67, meet the requirements specified in
12 s. 48.685, and pay the license fee under par. (b). A license issued under s. 48.66 (1) (a) to
13 operate a shelter care facility is valid until revoked or suspended, but shall be reviewed every
14 2 years ~~as provided in~~ under s. 48.66 (5).

15 (b) Before the department of health and family services may issue a license under s.
16 48.66 (1) (a) to operate a shelter care facility, the shelter care facility ~~must~~ shall pay to that
17 department a biennial fee of \$60.50, plus a biennial fee of \$18.15 per juvenile, based on the
18 number of juveniles that the shelter care facility is licensed to serve. A shelter care facility
19 that wishes to continue a license issued under s. 48.66 (1) (a) shall pay the fee ~~under this~~
20 ~~paragraph~~ by the continuation date of the license. A new shelter care facility shall pay the fee
21 ~~under this paragraph~~ by no later than 30 days before the opening of the shelter care facility.

22 **SECTION 215.** 938.222 (1) of the statutes is amended to read:

23 938.222 (1) USES OF FACILITIES. The county board of supervisors of ~~any~~ a county may
24 contract with a private entity that operates a secure juvenile detention facility for the use of

1 the ~~secure detention facility for the holding of~~ to hold juveniles who meet the criteria under
2 s. 48.208, 938.17 (1), 938.183 (1m) (a), or 938.208 or who are subject to a disposition under
3 s. 938.17 (1) (b) or 938.34 (3) (f), a sanction under s. 938.355 (6) (d) 1., or short-term detention
4 under s. 938.355 (6d) or 938.534 (1).

5 **SECTION 216.** 938.222 (2) (title) of the statutes is created to read:

6 938.222 (2) (title) CONTRACT REQUIREMENTS.

7 **SECTION 217.** 938.222 (2) (a) 1. and 2. of the statutes are amended to read:

8 938.222 (2) (a) 1. That the private ~~secure~~ juvenile detention facility meet or exceed the
9 minimum requirements for the approval and operation of a ~~secure~~ juvenile detention facility
10 established by the department by ~~rules promulgated~~ rule under s. 938.22 (2) (a) and that the
11 private ~~secure~~ juvenile detention facility be approved by the department under s. 301.36.

12 2. That the private ~~secure~~ juvenile detention facility provide educational programming,
13 health care, and other care that is equivalent to that which a juvenile would receive ~~if held in~~
14 a public ~~secure~~ juvenile detention facility.

15 **SECTION 218.** 938.223 (1) (title) of the statutes is created to read:

16 938.223 (1) (title) USES OF FACILITIES.

17 **SECTION 219.** 938.223 (2) (title) of the statutes is created to read:

18 938.223 (2) (title) CONTRACT REQUIREMENTS.

19 **SECTION 220.** 938.223 (2) (a) 1. and 2. of the statutes are amended to read:

20 938.223 (2) (a) 1. That the Minnesota ~~secure~~ juvenile detention facility meet or exceed
21 the minimum requirements for the approval and operation of a Wisconsin ~~secure~~ juvenile
22 detention facility established by the department by ~~rules promulgated~~ rule under s. 938.22 (2)
23 (a) and that the Minnesota ~~secure~~ juvenile detention facility be approved by the department
24 under s. 301.36.

1 2. That the Minnesota ~~secure~~ juvenile detention facility provide educational
2 programming, health care, and other care that is equivalent to that which a juvenile would
3 receive ~~if held~~ in a Wisconsin ~~secure~~ juvenile detention facility.

4 **SECTION 221.** 938.223 (3) of the statutes is amended to read:

5 938.223 (3) MINNESOTA JUVENILES IN WISCONSIN FACILITIES. The county board of
6 supervisors of ~~any a~~ county that operates a ~~secure~~ juvenile detention facility may contract with
7 one or more counties in Minnesota for the use of the ~~secure~~ juvenile detention facility operated
8 by the Wisconsin county for the holding of juveniles transferred to that ~~secure~~ juvenile
9 detention facility by the Minnesota county.

10 **SECTION 222.** 938.224 (1) of the statutes is amended to read:

11 938.224 (1) USES OF FACILITIES. The county board of supervisors of ~~any a~~ county may
12 contract with the department for the use of a ~~secured~~ juvenile correctional facility operated
13 by the department for the holding of juveniles who meet the criteria under s. 48.208, 938.17
14 (1), 938.183 (1m) (a), or 938.208 or who are subject to a disposition under s. 938.17 (1) (b)
15 or 938.34 (3) (f), a sanction under s. 938.355 (6) (d) 1., or short-term detention under s.
16 938.355 (6d) or 938.534 (1).

17 **SECTION 223.** 938.224 (2) (title), (3) (title) and (4) (title) of the statutes are created to
18 read:

19 938.224 (2) (title) CONTRACT REQUIREMENTS.

20 (3) (title) ADDITIONAL REQUIREMENTS.

21 (4) (title) SUPERVISION AND CONTROL OF JUVENILES.

22 **SECTION 224.** 938.23 (1g) and (1m) (a), (am) and (b) 2. of the statutes are amended to
23 read:

1 938.23 (1g) DEFINITION. In this section, "counsel" means an attorney acting as
2 adversary counsel who.

3 (1j) DUTIES OF COUNSEL. Counsel shall advance and protect the legal rights of the party
4 represented, and who. Counsel may not act as guardian ad litem for any party in the same
5 proceeding.

6 (1m) (a) Any A juvenile alleged to be delinquent under s. 938.12 or held in a secure
7 detention facility shall be represented by counsel at all stages of the proceedings, but a. A
8 juvenile 15 years of age or older may waive counsel if the court is satisfied that the waiver is
9 knowingly and voluntarily made and the court accepts the waiver. If the waiver is accepted,
10 the court may not place the juvenile in a secured juvenile correctional facility, a secured child
11 caring institution or a secured group home residential care center for children and youth,
12 transfer supervision of the juvenile to the department for participation in the serious juvenile
13 offender program, or transfer jurisdiction over the juvenile to adult court.

14 (am) A juvenile subject to a sanction under s. 938.355 (6) (a) shall be is entitled to
15 representation by counsel at the hearing under s. 938.355 (6) (c).

16 (b) 2. If the petition is contested, the court may not place the juvenile outside his or her
17 home unless the juvenile is represented by counsel at the fact-finding hearing and subsequent
18 proceedings. If the petition is not contested, the court may not place the juvenile outside his
19 or her home unless the juvenile is represented by counsel at the hearing at which the placement
20 is made. For a juvenile under 12 years of age, the judge court may appoint a guardian ad litem
21 instead of counsel.

22 **SECTION 225.** 938.23 (3), (4) and (5) of the statutes are amended to read:

23 938.23 (3) POWER OF THE COURT TO APPOINT COUNSEL. Except in proceedings under s.
24 938.13 as provided in this subsection, at any time, upon request or on its own motion, the court

1 may appoint counsel for the juvenile or any party, unless the juvenile or the party has or wishes
2 to retain counsel of his or her own choosing. The court may not appoint counsel for any party
3 other than the juvenile in a proceeding under s. 938.13.

4 (4) PROVIDING COUNSEL. ~~In any situation under this section in which~~ If a juvenile has
5 a right to be represented by counsel or is provided counsel at the discretion of the court under
6 this section and counsel is not knowingly and voluntarily waived, the court shall refer the
7 juvenile to the state public defender and counsel shall be appointed by the state public defender
8 under s. 977.08 without a determination of indigency. In any other situation under this section
9 in which a person has a right to be represented by counsel or is provided counsel at the
10 discretion of the court, competent and independent counsel shall be provided and reimbursed
11 in any manner suitable to the court regardless of the person's ability to pay, except that the
12 court may not order a person who files a petition under s. 813.122 or 813.125 to reimburse
13 counsel for the juvenile who is named as the respondent in that petition.

14 (5) COUNSEL OF OWN CHOOSING. ~~Regardless of any provision of this section~~
15 Notwithstanding subs. (3) and (4), any party is entitled to retain counsel of his or her own
16 choosing at his or her own expense in any proceeding under this chapter.

17 **SECTION 226.** 938.235 (3) (a) and (b) (intro.) of the statutes are amended to read:

18 938.235 (3) DUTIES AND RESPONSIBILITIES. (a) The guardian ad litem shall be an
19 advocate for the best interests of the person for whom the appointment is made. The guardian
20 ad litem shall function independently, in the same manner as an attorney for a party to the
21 action, and shall consider, but shall not be bound by, the wishes of such the person or the
22 positions of others as to the best interests of such the person. If the guardian ad litem
23 determines that the best interests of the person are substantially inconsistent with the person's
24 wishes ~~of such person~~, the guardian ad litem shall so inform the court and the court may

1 appoint counsel to represent ~~that~~ the person. The guardian ad litem has none of the rights or
2 duties of a general guardian.

3 (b) (intro.) In addition to any other duties and responsibilities ~~required~~ of a guardian
4 ad litem, a guardian ad litem appointed for a juvenile who is the subject of a proceeding under
5 s. 938.13 shall do all of the following:

6 **SECTION 227.** 938.235 (7) and (8) (a) and (b) of the statutes are amended to read:

7 938.235 (7) TERMINATION AND EXTENSION OF APPOINTMENT. The appointment of a
8 guardian ad litem under sub. (1) terminates upon the entry of the court's final order or upon
9 the termination of any appeal in which the guardian ad litem participates. The guardian ad
10 litem may appeal, may participate in an appeal, or ~~may~~ do neither. If an appeal is taken by any
11 party and the guardian ad litem chooses not to participate in ~~that~~ the appeal, he or she shall file
12 with the appellate court a statement of reasons for not participating. Irrespective of the
13 guardian ad litem's decision not to participate in an appeal, the appellate court may order the
14 guardian ad litem to participate in the appeal. At any time, the guardian ad litem, any party,
15 or the person for whom the appointment is made may request in writing or on the record that
16 the court extend or terminate the appointment or reappointment. The court may extend that
17 appointment, or reappoint a guardian ad litem appointed under this section, after the entry of
18 the final order or after the termination of the appeal, but the court shall specifically state the
19 scope of the responsibilities of the guardian ad litem during the period of ~~that~~ the extension
20 or reappointment.

21 (8) COMPENSATION. (a) A guardian ad litem appointed under this chapter shall be
22 compensated at a rate that the court determines is reasonable, ~~except that, if,~~ If the court orders
23 a county to pay the compensation of the guardian ad litem, the amount ordered may not exceed
24 the compensation payable to a private attorney under s. 977.08 (4m) (b).

(b) The court may order either or both of the parents of a juvenile for whom a guardian ad litem is appointed under this chapter to pay all or any part of the compensation of the guardian ad litem. ~~In addition, upon~~ Upon motion by the guardian ad litem, the court may order either or both of the parents of the juvenile to pay the fee for an expert witness used by the guardian ad litem, if the guardian ad litem shows that the use of the expert is necessary to assist the guardian ad litem in performing his or her functions or duties under this chapter. If one or both parents are indigent or if the court determines that it would be unfair to a parent to require him or her to pay, the court may order the county of venue to pay the compensation and fees, in whole or in part. If the court orders the county of venue to pay ~~because a parent is indigent~~, the court may also order either or both of the parents to reimburse the county, in whole or in part, for the payment.

SECTION 228. 938.237 (1) (title), (2) (title) and (3) (title) of the statutes are created to read:

938.237 (1) (title) CITATION FORM.

(2) (title) PROCEDURES.

(3) (title) DISPOSITION.

SECTION 229. 938.24 (1) of the statutes is amended to read:

938.24 (1) REFERRAL OF INFORMATION TO INTAKE WORKER; INQUIRY. Except when a citation has been issued under s. 938.17 (2), information indicating that a juvenile should be referred to the court as delinquent, in need of protection or services, or in violation of a civil law or a county, town, or municipal ordinance shall be referred to the an intake worker, ~~who~~. The intake worker shall conduct an intake inquiry on behalf of the court to determine whether the available facts establish prima facie jurisdiction and to determine the best interests of the juvenile and of the public with regard to any action to be taken.

1 **SECTION 230.** 938.24 (1m) (title) of the statutes is created to read:

2 938.24 (**1m**) (title) COUNSELING.

3 **SECTION 231.** 938.24 (2) and (2m) of the statutes are amended to read:

4 938.24 (**2**) MULTIDISCIPLINARY SCREENS; INTAKE CONFERENCES. (a) As part of the intake
5 inquiry the intake worker, after providing notice to the juvenile, parent, guardian, and legal
6 custodian, may conduct multidisciplinary screens and intake conferences ~~with notice to the~~
7 ~~juvenile, parent, guardian and legal custodian.~~ If sub. (2m) applies and if the juvenile has not
8 refused to participate under par. (b), the intake worker shall conduct a multidisciplinary screen
9 under s. 938.547 ~~if the juvenile has not refused to participate under par. (b).~~

10 (b) No juvenile or other person may be compelled by an intake worker to appear at any
11 conference, participate in a multidisciplinary screen, produce any papers, or visit any place
12 ~~by an intake worker.~~

13 (**2m**) MULTIDISCIPLINARY SCREEN; PILOT PROGRAM. (a) In counties that have a pilot
14 program under s. 938.547, a multidisciplinary screen shall be conducted for a juvenile who
15 is or does any of the following:

- 16 1. ~~Any juvenile alleged~~ Alleged to have committed a violation specified under ch. 961.
- 17 2. ~~Any juvenile alleged~~ Alleged to be delinquent or in need of protection and services
18 ~~who and~~ and has at least 2 prior adjudications for a violation of s. 125.07 (4) (a) or (b), 125.085
19 (3) (b) or 125.09 (2) or a local ordinance that strictly conforms to any of those sections.
- 20 3. ~~Any juvenile alleged~~ Alleged to have committed any offense ~~which~~ that appears to
21 the intake worker to be directly motivated by the juvenile's need to purchase or otherwise
22 obtain alcohol beverages, controlled substances, or controlled substance analogs.
- 23 4. ~~Any juvenile 12~~ Twelve years of age or older ~~who and~~ and requests and consents to a
24 multidisciplinary screen.

1 5. ~~Any juvenile who consents~~ Consents to a multidisciplinary screen requested by his
2 or her parents.

3 (b) The multidisciplinary screen may be conducted by an intake worker for any reason
4 other than those specified ~~in the criteria under~~ in par. (a).

5 **SECTION 232.** 938.24 (2r) (title), and (3) (title) of the statutes are created to read:

6 938.24 (2r) (title) AMERICAN INDIAN JUVENILE; NOTIFICATION OF TRIBAL COURT.

7 (3) (title) REQUEST FOR PETITION.

8 **SECTION 233.** 938.24 (4) and (5) of the statutes are amended to read:

9 938.24 (4) DEFERRED PROSECUTION AGREEMENT OR CASE CLOSURE. If the intake worker
10 determines as a result of the intake inquiry that the case should be subject to a deferred
11 prosecution agreement, or should be closed, the intake worker shall so proceed. If a petition
12 has been filed, a deferred prosecution agreement may not be entered into or a case may not
13 be closed unless the petition is withdrawn by the district attorney, corporation counsel or other
14 official specified in s. 938.09, or is dismissed by the judge court.

15 (5) REQUEST FOR PETITION, DEFERRED PROSECUTION, OR CASE CLOSURE: TIME PERIODS. The
16 intake worker shall request that a petition be filed, enter into a deferred prosecution agreement,
17 or close the case within 40 days ~~or sooner~~ of receipt of referral information. Before entering
18 into a deferred prosecution agreement, the intake worker shall comply with s. 938.245 (1m),
19 if applicable. If the case is closed or a deferred prosecution agreement is entered into, the
20 district attorney, corporation counsel, or other official under s. 938.09 shall receive written
21 notice of such that action. If the case is closed, the known victims of the juvenile's alleged
22 act shall receive notice as provided under sub. (5m), if applicable. A notice of deferred
23 prosecution of an alleged delinquency case shall include a summary of the facts surrounding
24 the allegation and a list of the juvenile's prior intake referrals and dispositions. If a law

1 enforcement officer has made a recommendation concerning the juvenile, the intake worker
2 shall forward ~~this~~ the recommendation to the district attorney under s. 938.09.
3 Notwithstanding the requirements of this section, the district attorney may initiate a
4 delinquency petition under s. 938.25 within 20 days after notice that the case has been closed
5 or that a deferred prosecution agreement has been entered into. The judge court shall grant
6 appropriate relief ~~as provided in~~ under s. 938.315 (3) with respect to any such petition which
7 is not referred or filed within the time limits specified ~~within~~ in this subsection. Failure to
8 object ~~if to the fact that~~ a petition is not referred or filed within a time limit specified in this
9 subsection waives that time limit.

10 **SECTION 234.** 938.24 (5m) (title) of the statutes is created to read:

11 938.24 (**5m**) (title) CASE CLOSURE; INFORMATION TO VICTIMS.

12 **SECTION 235.** 938.24 (6) and (7) of the statutes are amended to read:

13 938.24 (**6**) WRITTEN POLICIES. The intake worker shall perform his or her
14 responsibilities under this section under general written policies ~~which the judge shall~~
15 ~~promulgate~~ promulgated under s. 938.06 (1) or (2).

16 (**7**) NO INTAKE INQUIRY OR REVIEW FOR CITATIONS. If a citation is issued to a juvenile, the
17 citation ~~shall~~ is not be the subject of an intake ~~to an~~ inquiry or a review by an intake worker
18 for the purpose of recommending deferred prosecution.

19 **SECTION 236.** 938.243 (1) (intro.), (am), (c) and (h) of the statutes are amended to read:

20 938.243 (**1**) INFORMATION TO JUVENILE AND PARENTS; BASIC RIGHTS. (intro.) Before
21 conferring with the parent or juvenile during the intake inquiry, the intake worker shall
22 personally inform a juvenile alleged to have committed a delinquent act, ~~and parents and~~
23 ~~juveniles~~ a juvenile 10 years of age or ~~over~~ older who ~~are~~ is the focus of an inquiry regarding

1 the need for protection or services under s. 938.13 (4), (6), (6m), or (7), and the parents of those
2 juveniles of all of the following:

3 (am) What allegations ~~could~~ may be in the petition to the court.

4 (c) The right to remain silent ~~and~~, the fact that in a delinquency proceeding the silence
5 of the juvenile shall is not to be adversely considered by the court ~~although, and the fact that~~
6 in a nondelinquency proceeding the silence of any party may be relevant in ~~any~~
7 nondelinquency the proceeding.

8 (h) The right to have the allegations of the petition proved by clear and convincing
9 evidence unless the juvenile ~~comes~~ is within the court's jurisdiction under s. 938.12 or 938.13
10 (12), in which case the standard of proof ~~shall be~~ is beyond a reasonable doubt.

11 **SECTION 237.** 938.243 (1m) of the statutes is renumbered 938.245 (1m) (intro.) and
12 amended to read:

13 938.243 (1m) DISCLOSURE OF INFORMATION FOR USE IN CIVIL DAMAGES ACTION. (intro.)
14 If the juvenile who is the subject of the intake inquiry is alleged to have committed an act which
15 resulted in personal injury or damage to or loss of the property of another, the intake worker
16 shall inform the juvenile's parents in writing of ~~the~~ all of the following:

17 (a) The possibility of disclosure of the identity of the juvenile and the parents, of the
18 juvenile's police records, and of the outcome of proceedings against the juvenile for use in
19 civil actions for damages against the juvenile or the parents ~~and of the~~.

20 (b) The parents' ~~potential~~ liability for acts of their juveniles.

21 **SECTION 238.** 938.243 (3) of the statutes is amended to read:

22 938.243 (3) INFORMATION WHEN JUVENILE NOT AT INTAKE CONFERENCE OR HAS NOT HAD
23 CUSTODY HEARING. If the juvenile has not had a hearing under s. 938.21 and was not present
24 at an intake conference under s. 938.24, the intake worker shall ~~inform~~ notify the juvenile,

1 parent, guardian, and legal custodian as appropriate of their basic rights under this section.

2 ~~This~~ The notice shall be given verbally, either in person or by telephone, and in writing. ~~This~~

3 The notice shall be given ~~so as~~ in sufficient time to allow the juvenile, parent, guardian, or legal

4 custodian sufficient time to prepare for the plea hearing. This subsection does not apply to

5 cases of deferred prosecution under s. 938.245.

6 **SECTION 239.** 938.243 (4) (title) of the statutes is created to read:

7 938.243 (4) (title) APPLICABILITY.

8 **SECTION 240.** 938.245 (1) of the statutes is renumbered 938.245 (1) (intro.) and is

9 amended to read:

10 938.245 (1) WHEN AVAILABLE. (intro.) ~~The~~ An intake worker may enter into a written

11 deferred prosecution agreement with all parties as provided in this section if ~~the~~ all of the

12 following apply:

13 (a) The intake worker has determined that neither the interests of the juvenile nor of the

14 public require filing of a petition for circumstances relating to s. 938.12, 938.125, 938.13, or

15 938.14. ~~Deferred prosecution shall be available only if the~~

16 (b) The facts persuade the intake worker that the jurisdiction of the court, if sought,

17 would exist ~~and upon consent of the~~.

18 (c) The juvenile, parent, guardian and legal custodian consent.

19 **SECTION 241.** 938.245 (1m) of the statutes is amended to read:

20 938.245 (1m) VICTIMS; RIGHT TO CONFER WITH INTAKE WORKER. If a juvenile is alleged

21 to be delinquent under s. 938.12 or to be in need of protection or services under s. 938.13 (12),

22 an intake worker shall, as soon as practicable but ~~in any event~~ before entering into a deferred

23 prosecution agreement under sub. (1), offer all of the victims of the juvenile's alleged act who

24 have so requested, ~~the opportunity~~ an opportunity to confer with the intake worker concerning

1 the proposed deferred prosecution agreement. The duty to confer under this subsection does
2 not limit the obligation of the intake worker to perform his or her responsibilities under this
3 section.

4 **SECTION 242.** 938.245 (2) (title), (2) (a) (title) and (2) (a) 1. (title) of the statutes are
5 created to read:

6 938.245 (2) (title) CONTENTS OF AGREEMENT. (a) (title) *Specific conditions.* 1. (title)
7 'Counseling.'

8 **SECTION 243.** 938.245 (2) (a) 2., 3. and 4. of the statutes are amended to read:

9 938.245 (2) (a) 2. 'Compliance with obligations.' That the juvenile and a parent,
10 guardian and, or legal custodian abide by such obligations, including supervision, curfews,
11 and school attendance requirements, as will tend to ensure the juvenile's rehabilitation,
12 protection or care.

13 3. 'Alcohol and other drug abuse assessment.' That the juvenile submit to an alcohol
14 and other drug abuse assessment that conforms to meets the criteria specified under s. 938.547
15 (4) and that is conducted by an approved treatment facility for an examination of the juvenile's
16 use of alcohol beverages, controlled substances, or controlled substance analogs and any
17 medical, personal, family, or social effects caused by its use, if the multidisciplinary screen
18 conducted under s. 938.24 (2) shows that the juvenile is at risk of having needs and problems
19 related to the use of alcohol beverages, controlled substances, or controlled substance analogs
20 and its medical, personal, family, or social effects.

21 4. 'Alcohol and other drug abuse treatment and education.' That the juvenile participate
22 in an alcohol and other drug abuse outpatient treatment program, a court-approved pupil
23 assistance program provided by the juvenile's school board, or a court-approved alcohol or
24 other drug abuse education program, if an alcohol and other drug abuse assessment conducted

1 under subd. 3. recommends outpatient treatment, intervention, or education. The juvenile's
2 participation in a court-approved pupil assistance program ~~under this subdivision~~ is subject
3 to the approval of the juvenile's school board.

4 **SECTION 244.** 938.245 (2) (a) 5. a., am. and c. of the statutes are amended to read:

5 938.245 (2) (a) 5. 'Restitution.' a. That the juvenile participate in a restitution project
6 if the act for which the ~~deferred prosecution~~ agreement is being entered into has resulted in
7 damage to the property of another, or in actual physical injury to another excluding pain and
8 suffering. Subject to subd. 5. c., the ~~deferred prosecution~~ agreement may require the juvenile
9 to repair the damage to property or to make reasonable restitution for the damage or injury,
10 either in the form of cash payments or, if the victim agrees, the performance of services for
11 the victim, or both, if the intake worker, after taking into consideration the well-being and
12 needs of the victim, considers it beneficial to the well-being and behavior of the juvenile. ~~Any~~
13 ~~such deferred prosecution~~ The agreement shall include a determination that the juvenile alone
14 is financially able to pay or physically able to perform the services, may allow up to the date
15 of the expiration of the ~~deferred prosecution~~ agreement for the payment or for the completion
16 of the services, and may include a schedule for the performance and completion of the
17 services. Any recovery under this subd. 5. a. shall be reduced by the amount recovered as
18 ~~restitution~~ for the same act under subd. 5. am.

19 am. That the parent who has custody, as defined in s. 895.035 (1), of the juvenile make
20 reasonable restitution for any damage to the property of another, or for any actual physical
21 injury to another excluding pain and suffering, resulting from the act for which the ~~deferred~~
22 ~~prosecution~~ agreement is being entered into. Except for recovery for retail theft under s.
23 943.51, the maximum amount of any restitution ordered under this subd. 5. am. for damage
24 or injury resulting from any one act of a juvenile or from the same act committed by 2 or more

1 juveniles in the custody of the same parent may not exceed \$5,000. Any order under this subd.
2 5. am. shall include a finding that the parent ~~who has custody of the juvenile~~ is financially able
3 to pay the amount ordered and may allow up to the date of the expiration of the ~~deferred~~
4 ~~prosecution agreement~~ for the payment. Any recovery under this subd. 5. am. shall be reduced
5 by the amount recovered as ~~restitution~~ for the same act under subd. 5. a.

6 c. ~~Under~~ An agreement under this subdivision, ~~a deferred prosecution agreement~~ may
7 ~~not~~ require a juvenile who is under 14 years of age to make not more than \$250 in restitution
8 or to perform not more than 40 total hours of services for the victim as total restitution.

NOTE: Revises s. 948.245 (2) (a) 5. c. to clarify that the maximum amount of restitution in terms of monetary amount or services applies to all of the damage or injuries from the act (or acts) that are the basis for the deferred prosecution agreement (i.e., the amount does not apply per charge or per petition, but is the total amount that can be required under the agreement).

The same change is made in ss. 938.32 (1t) (a) 3. and 938.34 (5) (c), stats.

9 **SECTION 245.** 938.245 (2) (a) 6. (title) of the statutes is created to read:

10 938.245 (2) (a) 6. 'Supervised work program.'

11 **SECTION 246.** 938.245 (2) (a) 7. of the statutes is amended to read:

12 938.245 (2) (a) 7. 'Volunteers in probation.' That the juvenile be placed with a
13 volunteers in probation program under ~~such~~ conditions as the intake worker determines are
14 reasonable and appropriate, if the juvenile is alleged to have committed an act that would
15 constitute a misdemeanor if committed by an adult, if the chief judge of the judicial
16 administrative district has approved under s. 973.11 (2) a volunteers in probation program
17 established in the juvenile's county of residence, and if the intake worker determines that
18 volunteer supervision under that ~~volunteers in probation~~ program will likely benefit the
19 juvenile and the community. The conditions ~~that the~~ an intake worker may establish under

1 this subdivision may include, ~~but need not be limited to~~, a request to a volunteer to provide
2 be a role model for the juvenile ~~a role model~~, informal counseling, general monitoring, and
3 monitoring of the conditions established by the intake worker, or any combination of these
4 functions, and any other deferred prosecution condition that the intake worker may establish
5 under this paragraph.

6 **SECTION 247.** 938.245 (2) (a) 8. (title) of the statutes is created to read:

7 938.245 (2) (a) 8. 'Teen court program.'

8 **SECTION 248.** 938.245 (2) (a) 8. c. of the statutes is amended to read:

9 938.245 (2) (a) 8. c. The juvenile admits to the intake worker, with in the presence of
10 the juvenile's parent, guardian, or legal custodian ~~present~~, that the juvenile committed the
11 alleged delinquent act or civil law or ordinance violation.

12 **SECTION 249.** 938.245 (2) (a) 9m. (title), (b) (title) and (c) (title) of the statutes are
13 created to read:

14 938.245 (2) (a) 9m. (title) 'Youth report center.'

15 (b) (title) *No out-of-home placement; term of agreement.*

16 (c) (title) *Alcohol or other drug abuse treatment; informed consent.*

17 **SECTION 250.** 938.245 (2g) to (4) of the statutes are amended to read:

18 938.245 (2g) GRAFFITI VIOLATION. If the deferred prosecution agreement is based on an
19 allegation that the juvenile violated s. 943.017 and the juvenile has attained ~~the minimum age~~
20 ~~at which a juvenile may be adjudicated delinquent~~ 10 years of age, the deferred prosecution
21 agreement may require that the juvenile participate for not less than 10 hours nor more than
22 100 hours in a supervised work program under s. 938.34 (5g) or perform not less than 10 hours
23 nor more than 100 hours of other community service work, except that if the juvenile has not
24 attained 14 years of age the maximum number of hours is 40.

1 (2v) HABITUAL TRUANCY VIOLATION. If the deferred prosecution agreement is based on
2 an allegation that the juvenile has violated a municipal ordinance enacted under s. 118.163 (2),
3 the ~~deferred prosecution~~ agreement may require that the juvenile's parent, guardian, or legal
4 custodian attend school with the juvenile.

5 (3) OBLIGATIONS IN WRITING. The obligations imposed under a deferred prosecution
6 agreement and its effective date shall be set forth in writing. The intake worker shall provide
7 a copy of the agreement and order to the juvenile and a, to the juvenile's parent, guardian, and
8 legal custodian shall receive a copy of the agreement and order, as shall, and to any agency
9 providing services under the agreement.

10 (4) RIGHT TO TERMINATE OR OBJECT TO AGREEMENT. The intake worker shall inform the
11 juvenile and the juvenile's parent, guardian, and legal custodian in writing of their right to
12 terminate the deferred prosecution agreement at any time or to object at any time to the fact
13 or terms of the ~~deferred prosecution~~ agreement. If there is an objection arises, the intake
14 worker may alter the terms of the agreement or request the district attorney or corporation
15 counsel to file a petition. If the ~~deferred prosecution~~ agreement is terminated the intake worker
16 may request the district attorney or corporation counsel to file a petition.

17 **SECTION 251.** 938.245 (5) (title) of the statutes is created to read:

18 938.245 (5) (title) TERMINATION UPON REQUEST.

19 **SECTION 252.** 938.245 (6) to (9) of the statutes are amended to read:

20 938.245 (6) TERMINATION IF DELINQUENCY PETITION FILED. A deferred prosecution
21 agreement arising out of an alleged delinquent act is terminated if the district attorney files a
22 delinquency petition within 20 days after receipt of notice of the deferred prosecution
23 agreement under s. 938.24 (5). ~~In such case~~ If a petition is filed, statements made to the intake
24 worker during the intake inquiry are inadmissible.

1 (7) CANCELLATION BY INTAKE WORKER. (a) If at any time during the period of a deferred
2 prosecution agreement the intake worker determines that the obligations imposed under it are
3 not being met, the intake worker may cancel the ~~deferred prosecution agreement~~. Within 10
4 days after the ~~cancellation of the deferred prosecution agreement~~ is cancelled, the intake
5 worker shall notify the district attorney, corporation counsel, or other official under s. 938.09
6 of the cancellation and may request that a petition be filed. In delinquency cases, the district
7 attorney may initiate a petition within 20 days after the date of the notice regardless of whether
8 the intake worker has requested that a petition be filed. The ~~judge~~ court shall grant appropriate
9 relief ~~as provided in~~ under s. 938.315 (3) with respect to any petition ~~which~~ that is not filed
10 within the time limit specified in this subsection paragraph. Failure to object if a petition is
11 not filed within the time limit specified in this subsection paragraph waives that time limit.

12 (b) In addition to the action taken under par. (a), if the intake worker cancels a deferred
13 prosecution agreement based on a determination that the juvenile's parent, guardian, or legal
14 custodian is not meeting the obligations imposed under the agreement, the intake worker shall
15 request the district attorney, corporation counsel, or other official under s. 938.09 to file a
16 petition requesting the court to order the juvenile's parent, guardian, or legal custodian to show
17 good cause for not meeting the obligations ~~imposed under the agreement~~. If the ~~district~~
18 ~~attorney, corporation counsel or other official under s. 938.09~~ files a petition under this
19 paragraph is filed and if the court finds prosecutive merit for the petition, the court shall grant
20 an order directing the parent, guardian, or legal custodian to show good cause, at a time and
21 place fixed by the court, for not meeting the obligations ~~imposed under the agreement~~. If the
22 parent, guardian or legal custodian does not show good cause ~~for not meeting the obligations~~
23 ~~imposed under the agreement~~, the court may impose a forfeiture not to exceed \$1,000.

1 (8) WHEN OBLIGATIONS MET. If the obligations imposed under the deferred prosecution
2 agreement are met, the intake worker shall so inform the juvenile and a parent, guardian, and
3 legal custodian in writing, ~~and no.~~ No petition may be filed or citation issued on the charges
4 that brought about the deferred prosecution agreement ~~nor may~~ and the charges may not be
5 the sole basis for a petition under s. 48.13, 48.133, 48.14, 938.13, or 938.14.

6 (9) WRITTEN POLICIES. The intake worker shall perform his or her responsibilities under
7 this section under general written policies ~~which the judge shall promulgate~~ promulgated
8 under s. 938.06 (1) or (2).

9 **SECTION 253.** 938.25 (1) to (2m) of the statutes are amended to read:

10 938.25 (1) REQUIREMENTS: WHO MAY FILE. A petition initiating proceedings under this
11 chapter shall be signed by a person who has knowledge of the facts alleged or is informed of
12 them and believes them to be true. ~~If The district attorney shall prepare, sign, and file a petition~~
13 ~~under s. 938.12 is to be filed, it shall be prepared, signed and filed by the district attorney.~~ The
14 district attorney, corporation counsel, or other appropriate official specified under s. 938.09
15 may file ~~the a~~ petition ~~if the proceeding is~~ under s. 938.125 or 938.13. The counsel or guardian
16 ad litem for a parent, relative, guardian, or juvenile may file a petition under s. 938.13 or
17 938.14. The district attorney, corporation counsel or other appropriate person designated by
18 the court may initiate proceedings under s. 938.14 in a manner specified by the court.

19 (2) TIME LIMITS: REFERRAL BACK. (a) The district attorney, corporation counsel, or other
20 appropriate official shall file the petition, close the case, or refer the case back to intake or, with
21 notice to intake, the law enforcement agency investigating the case within 20 days after the
22 date that the intake worker's request was filed. A referral back to intake or to the law
23 enforcement agency investigating the case may be made only when the district attorney,
24 corporation counsel, or other appropriate official decides not to file a petition or determines

1 that further investigation is necessary. If the case is referred back to intake upon a decision
2 not to file a petition, the intake worker shall close the case or enter into a deferred prosecution
3 agreement within 20 days after the date of the referral. If the case is referred back to intake
4 or to the law enforcement agency investigating the case for further investigation, the
5 appropriate agency or person shall complete the investigation within 20 days after the date of
6 the referral. If another referral is made to the district attorney, corporation counsel, or other
7 appropriate official by intake or by the law enforcement agency investigating the case, it shall
8 be considered a new referral to which the time limits of this subsection ~~shall~~ apply. The time
9 limits in this subsection may only be extended by a judge court upon a showing of good cause
10 under s. 938.315. If a petition is not filed within the time ~~limitations set forth~~ limits in this
11 subsection and the court has not granted an extension, the petition shall be accompanied by
12 a statement of reasons for the delay. The court shall grant appropriate relief as provided in s.
13 938.315 (3) with respect to a petition ~~which~~ that is not filed within the time limits ~~specified~~
14 in this paragraph. Failure to object if a petition is not filed within the time limits ~~specified~~ in
15 this paragraph waives those time limits.

16 (b) In delinquency cases ~~where~~ in which there has been a case closure or deferred
17 prosecution agreement, the petition shall be filed within 20 days ~~of~~ after receipt of the notice
18 of the closure or ~~deferred prosecution agreement~~. Failure to file within those 20 days
19 invalidates the petition and affirms the case closure or ~~deferred prosecution agreement~~, except
20 that the court shall grant appropriate relief ~~as provided in~~ under s. 938.315 (3) with respect to
21 a petition that is not filed within the time limit ~~specified~~ in this paragraph ~~and that failure.~~
22 Failure to object if a petition is not filed within the time limit ~~specified~~ in this paragraph waives
23 that time limit. If a petition is filed within those 20 days or the time permitted by the court

1 under s. 938.315 (3), whichever is later, the district attorney shall notify the parties to the
2 agreement and the intake worker of the filing as soon as possible.

3 (2g) AMERICAN INDIAN JUVENILE: CONSULTATION WITH TRIBAL COURT If the
4 circumstances described in s. 938.24 (2r) (a) apply, before filing a petition under s. 938.12 or
5 938.13 (12) the district attorney or corporation counsel shall determine whether the intake
6 worker has received notification under s. 938.24 (2r) (b) from a tribal official that a petition
7 relating to the alleged delinquent act has been or may be filed in tribal court. If the intake
8 worker has received ~~that~~ the notification or if a tribal official has provided ~~that~~ the notification
9 directly to the district attorney or corporation counsel, the district attorney or corporation
10 counsel shall attempt to consult with appropriate tribal officials before filing a petition under
11 s. 938.12 or 938.13 (12).

12 (2m) NOTICE TO VICTIMS IF NO PETITION FILED. If a juvenile is alleged to be delinquent
13 under s. 938.12 or to be in need of protection or services under s. 938.13 (12) and the district
14 attorney or corporation counsel decides not to file a petition, the district attorney or
15 corporation counsel shall make a reasonable attempt to inform ~~all of~~ the known victims of the
16 juvenile's act that a petition will not be filed against the juvenile at that time.

17 **SECTION 254.** 938.25 (3) of the statutes is amended to read:

18 938.25 (3) COURT ORDER FOR FILING OF PETITION. If the district attorney, corporation
19 counsel, or other appropriate official under s. 938.09 refuses to file a petition, any person may
20 request the ~~judge~~ court to order that the petition be filed and a hearing shall be held on the
21 request. The ~~judge~~ court may order the filing of the petition on ~~his or her~~ its own motion. The
22 matter may not be heard by the ~~judge who~~ court that orders the filing of a petition.

23 **SECTION 255.** 938.25 (4) (title), (5) (title) and (6) (title) of the statutes are created to
24 read:

1 938.25 (4) (title) TIME LIMIT ON PROSECUTION.

2 (5) (title) CITATION AS INITIAL PLEADING.

3 (6) (title) TEMPORARY RESTRAINING ORDER AND INJUNCTION.

4 **SECTION 256.** 938.255 (1) (intro.) (c) and (cm) of the statutes are amended to read:

5 938.255 (1) TITLE AND CONTENTS. (intro.) A petition initiating proceedings under this
6 chapter, other than a petition initiating proceedings under s. 938.12, 938.125, or 938.13 (12),
7 shall be entitled, "In the interest of (juvenile's name), a person under the age of 18". A petition
8 initiating proceedings under s. 938.12, 938.125, or 938.13 (12) shall be entitled, "In the
9 interest of (juvenile's name), a person under the age of 17". A petition initiating proceedings
10 under this chapter shall ~~set forth with specificity~~ specify all of the following:

11 (c) Whether the juvenile is in custody, and, if so, the place where the juvenile is being
12 held and the time he or she was taken into custody unless there is reasonable cause to believe
13 that such ~~disclosure~~ disclosures would result in imminent danger to the juvenile or physical
14 custodian.

15 (cm) If the petition is initiating proceedings other than proceedings under s. 938.12,
16 938.125 or 938.13 (12), whether the juvenile may be subject to the federal Indian ~~child welfare~~
17 act Child Welfare Act, 25 USC 1901 to 1963.

18 **SECTION 257.** 938.255 (1) (e) of the statutes is amended to read:

19 938.255 (1) (e) If the juvenile is alleged to come within ~~the provisions of~~ s. 938.13 (4),
20 (6), (6m), (7), or (14) or 938.14, reliable and credible information which forms the basis of
21 the allegations necessary to invoke the jurisdiction of the court and to provide reasonable
22 notice of the conduct or circumstances to be considered by the court together with a statement
23 that the juvenile is in need of supervision, services, care, or rehabilitation.

24 **SECTION 258.** 938.255 (2) (title) of the statutes is created to read:

1 938.255 (2) (title) FACTS NOT KNOWN.

2 **SECTION 259.** 938.255 (3) of the statutes is amended to read:

3 938.255 (3) IF CERTAIN INFORMATION NOT STATED. If the information required under sub.
4 (1) (d) or (e) is not stated the petition shall be dismissed or amended under s. 938.263 (2) (1)
5 (b) or dismissed.

6 **SECTION 260.** 938.255 (4) (title) of the statutes is created to read:

7 938.255 (4) (title) COPY TO JUVENILE AND OTHERS.

8 **SECTION 261.** 938.263 (1) (title) of the statutes is created to read:

9 938.263 (1) (title) TO CURE DEFECT.

10 **SECTION 262.** 938.263 (2) (title) of the statutes is created to read:

11 938.263 (2) (title) BEFORE OR AFTER PLEA.

12 **SECTION 263.** 938.265 of the statutes is amended to read:

13 **938.265 Consultation with victims.** In a case in which the juvenile is alleged to be
14 delinquent under s. 938.12 or to be in need of protection or services under s. 938.13 (12), the
15 district attorney or corporation counsel shall, as soon as practicable but ~~in any event~~ before
16 the plea hearing under s. 938.30, offer all of the victims of the juvenile's alleged act who have
17 so requested the opportunity an opportunity to confer with the district attorney or corporation
18 counsel concerning the possible outcomes of the proceeding against the juvenile, including
19 potential plea agreements and recommendations that the district attorney or corporation
20 counsel may make concerning dispositions under s. 938.34 or 938.345. The duty to confer
21 under this section does not limit the obligation of the district attorney or corporation counsel
22 to exercise his or her discretion concerning the handling of the proceeding against the juvenile.

23 **SECTION 264.** 938.27 (1) (title), (2) (title) and (3) (title) of the statutes are created to
24 read:

1 938.27 (1) (title) SUMMONS; WHEN ISSUED.

2 (2) (title) SUMMONS; NECESSARY PERSONS.

3 (3) (title) NOTICE OF HEARINGS.

4 **SECTION 265.** 938.27 (3) (a) 1. of the statutes is amended to read:

5 938.27 (3) (a) 1. The court shall also notify, under s. 938.273, the juvenile, any parent,
6 guardian, and legal custodian of the juvenile, any foster parent, treatment foster parent or other
7 physical custodian described in s. 48.62 (2) of the juvenile, and any person specified in par.
8 (b), if applicable, of all hearings involving the juvenile under this subchapter, except hearings
9 on motions for which notice ~~need only~~ must be provided only to the juvenile and his or her
10 counsel. ~~Where~~ If parents entitled to notice have the same place of residence, notice to one
11 ~~shall constitute~~ constitutes notice to the other. The first notice to any interested party, foster
12 parent, treatment foster parent, or other physical custodian described in s. 48.62 (2) shall be
13 ~~written in writing~~ and may have a copy of the petition attached to it. ~~Thereafter, notice of~~
14 Notices of subsequent hearings may be given by telephone at least 72 hours before the time
15 of the hearing. The person giving telephone notice shall place in the case file a signed
16 statement of the date and time notice was given and the person to whom he or she spoke.

17 **SECTION 266.** 938.27 (4) (title) of the statutes is created to read:

18 938.27 (4) (title) CONTENTS OF NOTICE.

19 **SECTION 267.** 938.27 (4m), (5) and (6) of the statutes are amended to read:

20 938.27 (4m) NOTICE TO VICTIMS OF HEARINGS. The district attorney or corporation
21 counsel shall make a reasonable attempt to contact any known victim or alleged victim of a
22 juvenile's act or alleged act to inform them of the right to receive notice of any hearing under
23 this chapter involving the juvenile. If a victim or alleged victim indicates that he or she wishes
24 to receive that notice of any hearing ~~under this chapter involving the juvenile~~, the district

1 attorney or corporation counsel shall make a reasonable attempt to notify, under s. 938.273,
2 that victim or alleged victim of any hearing under this chapter involving the juvenile. Any
3 ~~failure~~ Failure to comply with this subsection is not a ground for an appeal of a judgment or
4 dispositional order or for any court to reverse or modify a judgment or dispositional order.

5 (5) NOTICE TO BIOLOGICAL FATHERS. Subject to sub. (3) (b), the court shall make every
6 reasonable ~~effort~~ efforts to identify and notify any person who has filed a declaration of
7 interest under s. 48.025 and any person who has been adjudged to be the biological father of
8 the juvenile in a judicial proceeding unless the biological father's rights have been terminated.

9 (6) INTERSTATE COMPACT PROCEEDINGS; NOTICE AND SUMMONS. When a proceeding is
10 initiated under s. 938.14, all interested parties shall receive notice and appropriate summons
11 shall be issued in a manner specified by the court, ~~consistent with applicable governing~~
12 ~~statutes. In addition, if .~~ If the juvenile who is the subject of the proceeding is in the care of
13 a foster parent, treatment foster parent, or other physical custodian described in s. 48.62 (2),
14 the court shall give the foster parent, treatment foster parent, or other physical custodian notice
15 and an opportunity to be heard as provided in sub. (3) (a).

16 **SECTION 268.** 938.27 (7) (title) and (8) (title) of the statutes are created to read:

17 938.27 (7) (title) CITATIONS AS NOTICE.

18 (8) (title) REIMBURSE LEGAL COUNSEL COSTS IN CERTAIN CASES; NOTICE.

19 **SECTION 269.** 938.273 (1) of the statutes is renumbered 938.273 (1) (a) and amended
20 to read:

21 938.273 (1) METHODS OF SERVICE; CONTINUANCE. (a) Service of summons or notice
22 required by s. 938.27 may be made by mailing a copy thereof to the persons summoned or
23 notified. If the persons, other than a person specified in s. 938.27 (4m), fail to appear at the
24 hearing or otherwise to acknowledge service, a continuance shall be granted, except where the

1 ~~court determines otherwise because the juvenile is in secure custody under par. (b), and service~~
2 ~~shall be made personally by delivering to the persons a copy of the summons or notice; except~~
3 ~~that if, If the court is satisfied determines that it is impracticable to serve the summons or~~
4 ~~notice personally, it may make an order providing for the service of the summons or notice~~
5 ~~by certified mail addressed to the last-known addresses of the persons.~~

6 (b) The court may refuse to grant a continuance when the juvenile is being held in secure
7 custody, but ~~in such a case the court~~ if the court so refuses, it shall order that service of notice
8 of the next hearing be made personally or by certified mail to the last-known address of the
9 person who failed to appear at the hearing.

10 (c) Personal service shall be made at least 72 hours before ~~the time of the hearing.~~ Mail
11 shall be sent at least 7 days before ~~the time of the hearing, except where~~ when the petition is
12 filed under s. 938.13 and the person to be notified lives outside the state, ~~in which case the mail~~
13 shall be sent at least 14 days before ~~the time of the hearing.~~

14 **SECTION 270.** 938.273 (2) (title) and (3) (title) of the statutes are created to read:

15 938.273 (2) (title) BY WHOM MADE.

16 (3) (title) EXPENSES; CHARGE ON COUNTY.

17 **SECTION 271.** 938.275 (1) (title) and (2) (title) of the statutes are created to read:

18 938.275 (1) (title) EXPENSE OF CUSTODY, SERVICES, SANCTIONS, OR PLACEMENT.

19 (2) (title) LEGAL COUNSEL; INDIGENCY.

20 **SECTION 272.** 938.275 (1) (c) of the statutes is amended to read:

21 938.275 (1) (c) If the court imposes a sanction on a juvenile as specified in s. 938.355
22 (6) (d) or (6m) (a) or (ag) or finds the juvenile in contempt under s. 938.355 (6g) (b) and orders
23 a disposition under s. 938.34 or if the juvenile is placed in a secure juvenile detention facility
24 or place of nonsecure custody under s. 938.355 (6d) (a), (b), or (c) or 938.534 (1) (b) or (c),

1 the court shall order the parents of the juvenile to contribute toward the cost of the sanction,
2 disposition or placement the proportion of the total amount which the court finds the parents
3 are able to pay.

4 **SECTION 273.** 938.275 (2) (a) of the statutes is renumbered 938.275 (2) (a) (intro.) and
5 amended to read:

6 938.275 (2) (a) (intro.) If ~~this~~ the state or a county provides legal counsel to a juvenile
7 subject to a proceeding under s. 938.12 or 938.13, the court shall order the juvenile's parent
8 to reimburse the state or county ~~in accordance with~~ under par. (b) or (c). The court may not
9 order reimbursement if a either of the following apply:

10 1. A parent is the complaining or petitioning party ~~or if the~~.

11 2. The court finds that the interests of the parent and the interests of the juvenile in the
12 proceeding are substantially and directly adverse and that reimbursement would be unfair to
13 the parent.

14 (am) The court may not order reimbursement until the completion of the proceeding
15 or until the state or county is no longer providing the juvenile with legal counsel in the
16 proceeding.

17 **SECTION 274.** 938.275 (2) (b) and (c) of the statutes are amended to read:

18 938.275 (2) (b) If ~~this~~ the state provides the juvenile with legal counsel and the court
19 orders reimbursement under par. (a), the juvenile's parent may request the state public
20 defender to determine whether the parent is indigent ~~as provided~~ under s. 977.07 and to
21 determine the amount of reimbursement. If the parent is found not to be indigent, the amount
22 of reimbursement shall be the maximum amount established by the public defender board.
23 If the parent is found to be indigent in part, the amount of reimbursement shall be the amount

1 of partial payment determined ~~in accordance with the~~ under rules of the ~~public defender board~~
2 promulgated under s. 977.02 (3).

3 (c) If the county provides the juvenile with legal counsel and the court orders
4 reimbursement under par. (a), the court shall ~~either~~ make a determination of indigency or shall
5 appoint the county department to make the determination. If the court or the county
6 department finds that the parent is not indigent or is indigent in part, the court shall establish
7 the amount of reimbursement and shall order the parent to pay it.

8 **SECTION 275.** 938.275 (2) (cg) 3. of the statutes is amended to read:

9 938.275 (2) (cg) 3. The court's finding, under par. (a) 2., that the interests of the parent
10 and the juvenile are not substantially and directly adverse and that ordering the payment of
11 reimbursement would not be unfair to the parent.

12 **SECTION 276.** 938.28 of the statutes is amended to read:

13 **938.28 Failure to obey summons; capias.** If any person summoned under this chapter
14 fails without reasonable cause to appear, he or she may be proceeded against for contempt of
15 court under ch. 785. ~~In case~~ If the summons cannot be served ~~or~~ if the parties served fail to
16 ~~obey~~ respond to the same summons, or ~~in any case when~~ if it appears to the court that the
17 service will be ineffectual, a capias may be issued for the parent, guardian, and legal custodian
18 or for the juvenile. Subchapter IV governs the taking and holding of a juvenile in custody.

19 **SECTION 277.** 938.29 (1) of the statutes is amended to read:

20 938.29 (1) REQUEST FOR SUBSTITUTION. Except as ~~provided in~~ under sub. (1g), the
21 juvenile, either before or during the plea hearing, may file a written request with the clerk of
22 the court or other person acting as the clerk for a substitution of the judge assigned to the
23 proceeding. ~~Upon~~ Immediately upon filing the written request, the juvenile shall ~~immediately~~
24 mail or deliver a copy of the request to the judge named ~~therein~~ in the request. In a proceeding

1 under s. 938.12 or 938.13 (12), only the juvenile may request a substitution of the judge.
2 ~~Whenever~~ If the juvenile has the right to request a substitution of judge, the juvenile's counsel
3 or guardian ad litem may file the request. Not more than one ~~such~~ written request may be filed
4 in any one proceeding, ~~nor may~~ and any single request may not name more than one judge.
5 This section shall not apply to proceedings under s. 938.21.

6 **SECTION 278.** 938.29 (1g) of the statutes is renumbered 938.29 (1g) (intro.) and
7 amended to read:

8 938.29 (1g) WHEN SUBSTITUTION REQUEST NOT PERMITTED. (intro.) The juvenile may
9 not request the substitution of a judge in a proceeding under s. 938.12 or 938.13 (12), and the
10 juvenile and the juvenile's parent, guardian, or legal custodian may not request the substitution
11 of a judge in a proceeding under s. 938.13 (4), (6), (6m), or (7), if ~~the~~ any of the following
12 apply:

13 (a) The judge assigned to the proceeding has entered a dispositional order with respect
14 to the juvenile in a previous proceeding under s. 48.12, 1993 stats., s. 48.13 (4), (6), (6m), (7),
15 or (12), 1993 stats., s. 938.12, or 938.13 (4), (6), (6m), (7), or (12) ~~or the~~.

16 (b) The juvenile or the juvenile's parent, guardian, or legal custodian has requested the
17 substitution of a judge in a previous proceeding under s. 48.12, 1993 stats., s. 48.13 (4), (6),
18 (6m), (7) or (12), 1993 stats., s. 938.12 or 938.13 (4), (6), (6m), (7) or (12).

19 **SECTION 279.** 938.29 (1m) of the statutes is amended to read:

20 938.29 (1m) ASSIGNMENT OF NEW JUDGE. When the clerk receives a request for
21 substitution, the clerk shall immediately contact the judge whose substitution has been
22 requested for a determination of whether the request was made timely and in proper form.
23 Except as ~~provided in~~ under sub. (2), if the request is found to be timely and in proper form,
24 the judge named in the request has no further jurisdiction and the clerk shall request the

1 assignment of another judge under s. 751.03. If no determination is made within 7 days after
2 receipt of the request for substitution, the clerk shall refer the matter to the chief judge of the
3 judicial administrative district for determination of whether the request was made timely and
4 in proper form and for reassignment as necessary.

5 **SECTION 280.** 938.29 (2) (title) of the statutes is created to read:

6 938.29 (2) (title) SUBSTITUTION OF JUDGE SCHEDULED TO CONDUCT WAIVER HEARING.

7 **SECTION 281.** 938.293 (1) of the statutes is amended to read:

8 938.293 (1) LAW ENFORCEMENT REPORTS. Copies of all law enforcement officer reports,
9 including ~~but not limited to~~ the officer's memorandum and witnesses' statements, shall be
10 made available upon request to counsel or guardian ad litem prior to a plea hearing. The
11 reports shall be available through the representative of the public designated under s. 938.09.
12 The juvenile, through counsel or guardian ad litem, is the only party who shall have access
13 to the reports in proceedings under s. 938.12, 938.125, or 938.13 (12). The identity of a
14 confidential informant may be withheld ~~pursuant to~~ under s. 905.10.

15 **SECTION 282.** 938.293 (2) (title) of the statutes is created to read:

16 938.293 (2) (title) RECORDS RELATING TO JUVENILE.

17 **SECTION 283.** 938.293 (3) of the statutes is amended to read:

18 938.293 (3) VIDEOTAPED ORAL STATEMENT. Upon request prior to the fact-finding
19 hearing, the district attorney shall disclose to the juvenile, and to the juvenile's counsel or
20 guardian ad litem, the existence of any videotaped oral statement of a juvenile under s. 908.08
21 ~~which~~ that is within the possession, custody, or control of the state and shall make reasonable
22 arrangements for the requesting person to view the ~~videotaped oral~~ statement. If, subsequent
23 to compliance with this subsection, the state obtains possession, custody, or control of ~~such~~
24 a the videotaped oral statement, the district attorney shall promptly notify the requesting

1 person of that fact and make reasonable arrangements for the requesting person to view the
2 videotaped oral statement.

3 **SECTION 284.** 938.295 (1) of the statutes is renumbered 938.295 (1) (a) and amended
4 to read:

5 938.295 (1) EXAMINATION OR ASSESSMENT OF JUVENILE OR PARENT. (a) After the filing
6 of a petition and upon a finding by the court that reasonable cause exists to warrant an a
7 physical, psychological, mental, or developmental examination or an alcohol and other drug
8 abuse assessment that conforms to the criteria ~~specified~~ under s. 938.547 (4), the court may
9 order any a juvenile coming within its jurisdiction to be examined as an outpatient by
10 personnel in an approved treatment facility for alcohol and other drug abuse, by a physician,
11 psychiatrist, or licensed psychologist, or by another expert appointed by the court holding at
12 least a master's degree in social work or another related field of child development, in order
13 that the juvenile's physical, psychological, alcohol or other drug dependency, mental, or
14 developmental condition may be considered. The court may also order an examination or an
15 alcohol and other drug abuse assessment that conforms to the criteria ~~specified~~ under s.
16 938.547 (4) of a parent, guardian, or legal custodian whose ability to care for a juvenile is at
17 issue before the court.

18 (b) The court shall hear any objections by the juvenile and the juvenile's parents,
19 guardian, or legal custodian to the request under par. (a) for such an examination or assessment
20 before ordering the examination or assessment.

21 (c) The expenses of an examination, if approved by the court, shall be paid by the county
22 of the court ordering the examination. The payment for an alcohol and other drug abuse
23 assessment shall be in accordance with s. 938.361.

24 **SECTION 285.** 938.295 (1c) (intro.) of the statutes is amended to read:

1 938.295 (1c) REASONABLE CAUSE FOR ASSESSMENT; WHEN. (intro.) Reasonable cause is
2 considered to exist exists to warrant an alcohol and other drug abuse assessment under sub.
3 (1) if any of the following applies:

4 **SECTION 286.** 938.295 (1g) of the statutes is amended to read:

5 938.295 (1g) REPORT OF RESULTS AND RECOMMENDATIONS. If the court orders an alcohol
6 or other drug abuse assessment under sub. (1), the approved treatment facility shall, within 14
7 days after the court order, report the results of the assessment to the court, ~~except that, upon~~
8 ~~request.~~ If requested by the approved treatment facility and if the juvenile is not held in secure
9 or nonsecure custody, the court may extend the period for assessment for not more than 20
10 additional working days. The report shall include a recommendation as to whether the
11 juvenile is in need of treatment, intervention, or education relating to the use or abuse of
12 alcohol beverages, controlled substances, or controlled substance analogs and, if so, shall
13 recommend a service plan and appropriate treatment from an approved treatment facility,
14 intervention from a court-approved pupil assistance program, or education from a
15 court-approved alcohol or other drug abuse education program.

16 **SECTION 287.** 938.295 (2) (a) of the statutes is amended to read:

17 938.295 (2) NOT COMPETENT OR NOT RESPONSIBLE. (a) If there is probable cause to
18 believe that the juvenile has committed the alleged offense and if there is reason to doubt the
19 juvenile's competency to proceed, or upon entry of a plea under s. 938.30 (4) (c), the court shall
20 order the juvenile to be examined by a psychiatrist or licensed psychologist. ~~The~~ If the cost
21 of the examination, ~~if is~~ is approved by the court, the cost shall be paid by the county of the court
22 ordering the examination, and the county may recover that cost from the juvenile's parent or
23 guardian ~~as provided in~~ under par. (c). Evaluation shall be made on an outpatient basis unless
24 the juvenile presents a substantial risk of physical harm to the juvenile or others; or the

1 juvenile, parent, or guardian, and legal counsel or guardian ad litem, consent to an inpatient
2 evaluation. ~~Any~~ An inpatient evaluation shall be ~~for~~ completed in a specified period that is
3 no longer than is necessary to ~~complete the evaluation.~~

4 **SECTION 288.** 938.295 (2) (b) of the statutes is renumbered 938.295 (2) (b) 1. and is
5 amended to read:

6 938.295 (2) (b) 1. The examiner shall file a report of the examination with the court by
7 the date specified in the order. The court shall cause copies to be transmitted to the district
8 attorney or corporation counsel and to the juvenile's counsel or guardian ad litem. The report
9 shall describe the nature of the examination ~~and~~, identify the persons interviewed, the
10 particular records reviewed, and any tests administered to the juvenile and state in reasonable
11 detail the facts and reasoning upon which the examiner's opinions are based.

12 2. If the examination is ordered following a plea under s. 938.30 (4) (c), the report shall
13 also contain an opinion regarding whether the juvenile suffered from mental disease or defect
14 at the time of the commission of the act alleged in the petition and, if so, whether this caused
15 the juvenile to lack substantial capacity to appreciate the wrongfulness of his or her conduct
16 or to conform his or her conduct to the requirements of the law.

17 3. If the examination is ordered following a finding that there is probable cause to
18 believe that the juvenile has committed the alleged offense and that there is reason to doubt
19 the juvenile's competency to proceed, the report shall also contain an opinion regarding the
20 juvenile's present mental capacity to understand the proceedings and assist in his or her
21 defense and, if the examiner reports that the juvenile lacks competency to proceed, the
22 examiner's opinion regarding the likelihood that the juvenile, if provided treatment, may be
23 restored to competency within the time specified in s. 938.30 (5) (e) 1. ~~The report shall also~~

1 ~~state in reasonable detail the facts and reasoning upon which the examiner's opinions are~~
2 ~~based.~~

3 **SECTION 289.** 938.295 (3) of the statutes is amended to read:

4 938.295 (3) OBJECTION TO A PARTICULAR PROFESSIONAL. If the juvenile or a parent objects
5 to a particular physician, psychiatrist, licensed psychologist, or other expert as required under
6 this section, the court shall appoint a different physician, psychiatrist, psychologist or other
7 expert.

8 **SECTION 290.** 938.295 (4) (title) of the statutes is created to read:

9 938.295 (4) (title) TELEPHONE OR LIVE AUDIOVISUAL PROCEEDING.

10 **SECTION 291.** 938.296 (1) (title) and (2) (title) of the statutes are created to read:

11 938.296 (1) (title) DEFINITIONS.

12 (2) (title) SEXUALLY TRANSMITTED DISEASE TESTING.

13 **SECTION 292.** 938.296 (2m) (title) of the statutes is created to read:

14 938.296 (2m) (title) COMMUNICABLE DISEASE TESTING.

15 **SECTION 293.** 938.296 (2m) (b) of the statutes is amended to read:

16 938.296 (2m) (b) The district attorney or corporation counsel has probable cause to
17 believe that the act or alleged act of the juvenile that constitutes a violation of s. 946.43 (2m)
18 carried a potential for transmitting a communicable disease to the victim or alleged victim and
19 involved the juvenile's blood, semen, vomit, saliva, urine or feces, or other bodily substance
20 of the juvenile.

21 **SECTION 294.** 938.296 (3) (title), (4) (title), (5) (title) and (6) (title) of the statutes are
22 created to read:

23 938.296 (3) (title) WHEN ORDER MAY BE SOUGHT.

24 (4) (title) DISCLOSURE OF SEXUALLY TRANSMITTED DISEASE TEST RESULTS.

1 (5) (title) DISCLOSURE OF COMMUNICABLE DISEASE TEST RESULTS.

2 (6) (title) PAYMENT FOR TEST COSTS.

3 SECTION 295. 938.2965 (1) (title) of the statutes is created to read:

4 938.2965 (1) (title) DEFINITION.

5 SECTION 296. 938.2965 (2) of the statutes is amended to read:

6 938.2965 (2) COUNTY TO PROVIDE. If an area is available and use of the area is practical,
7 a county shall provide a waiting area for a victim or witness to use during hearings under this
8 chapter that if is separate from any area used by the juvenile, the juvenile's relatives, and
9 witnesses for the juvenile. If a separate waiting area is not available or its use is not practical,
10 a county shall provide other means to minimize the contact between the victim or witness and
11 the juvenile, the juvenile's relatives, and witnesses for the juvenile during hearings under this
12 chapter.

13 SECTION 297. 938.297 (1) (title) of the statutes is created to read:

14 938.297 (1) (title) MOTIONS ABLE TO BE DETERMINED WITHOUT TRIAL.

15 SECTION 298. 938.297 (2) to (4) of the statutes are amended to read:

16 938.297 (2) DEFENSES AND OBJECTIONS BASED ON PETITIONS FOR CITATION. Defenses If
17 defenses and objections based on defects in the institution of proceedings, lack of probable
18 cause on the face of the petition or citation, insufficiency of the petition or citation or invalidity
19 in whole or in part of the statute on which the petition or citation is founded ~~shall be~~ are not
20 ~~raised not later than~~ within 10 days after the plea hearing ~~or be deemed, they are~~ waived. Other
21 motions capable of determination without trial may be brought any time before trial.

22 (3) SUPPRESSION OF EVIDENCE. Motions to suppress evidence as ~~having been~~ illegally
23 seized or statements as ~~having been~~ illegally obtained shall be made before fact-finding on
24 the issues. The court may ~~entertain~~ consider the motion at the fact-finding hearing if it appears

1 that a party is surprised by the attempt to introduce ~~such~~ the evidence and that party waives
2 jeopardy. Only the juvenile may waive jeopardy in cases under s. 938.12, 938.125, or 938.13
3 (12).

4 (4) PROPRIETY OF TAKING JUVENILE INTO CUSTODY. Although the taking of a juvenile into
5 custody is not an arrest, it shall be considered an arrest for the purpose of deciding motions
6 which require a decision about the propriety of the taking into custody, including ~~but not~~
7 ~~limited to~~ motions to suppress evidence as illegally seized, motions to suppress statements as
8 illegally obtained, and motions challenging the lawfulness of the taking into custody.

9 **SECTION 299.** 938.297 (5) (title), (6) (title) and (7) (title) of the statutes are created to
10 read:

11 938.297 (5) (title) CONTINUATION IN CUSTODY IF MOTION TO DISMISS GRANTED.

12 (6) (title) SERVICE OF MOTION ON ATTORNEY.

13 (7) (title) ORAL ARGUMENT BY TELEPHONE.

14 **SECTION 300.** 938.299 (1) (title) of the statutes is created to read:

15 938.299 (1) (title) CLOSED HEARINGS; EXCEPTIONS.

16 **SECTION 301.** 938.299 (1) (am) of the statutes is amended to read:

17 938.299 (1) (am) Subject to s. 906.15, if a public hearing is not held, in addition to
18 persons permitted to attend under par. (a), a victim of a juvenile's act or alleged act may attend
19 any hearing under this chapter based upon the act or alleged act, except that ~~a judge~~ the court
20 may exclude a victim from any portion of a hearing ~~which~~ that deals with sensitive personal
21 matters of the juvenile or the juvenile's family and ~~which~~ that does not directly relate to the
22 act or alleged act committed against the victim. A member of the victim's family and, at the
23 request of the victim, a representative of an organization providing support services to the
24 victim, may attend the hearing under this subsection.